(705) XIV/392

Acts of the governor general of India in council 1855

A- Govt. of India

S- Law and Legislation/ Acts/ Council India/1855

Corrected copy
474
BENGAL SECRETARIAT LIBRARY

INDEX

TO THE

ACTS PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

IN THE YEAR 1855.

TITLES OF ACTS FOR 1855.

ACT No. I.—An Act for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.

„ II, for the further improvement of the Law of Evidence.

„ III, for the better prevention of Desertion from the Indian Navy.

„ IV, for incorporating for a further period, and for giving further powers to the Assam Company.

„ V, to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV of 1841.

„ VI, to extend the operation of, and regulate the mode of executing Writs of Execution in Her Majesty's Supreme Courts of Judicature.

„ VII, to amend the law of Arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any [illegible] the said Courts.

„ VIII, to amend the law relating to the o[illegible] and duties of Administrator General.

„ IX, for the amendment of Procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.

„ X, to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL Act XIX of 1853.

„ XI, relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.

„ XII, to enable Executors, Administrators, or Representatives to sue and be sued for certain wrongs.

„ XIII, to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

„ XIV, for the better regulation of Military Bazars in the Presidency of Fort Saint George.

„ XV, to amend Regulation III of 1833 of the Bombay Regulations.

„ XVI, to amend the Law in force in the Presidency of Bombay concerning the use of Badges.

Act No. XVII, to improve the Law relating to the Copper Currency in the Straits.

" XVIII, to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of Punishments in India.

" XIX, to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.

" XX, for the establishment and maintenance of Boundary-marks in the Presidency of Fort St. George.

" XXI, for making better provision for the education of Male Minors and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.

" XXII, for the regulation of Ports and Port-dues.

" XXIII, to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

" XXIV, to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.

" XXV, to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.

" XXVI, to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased despositors.

" XXVII, to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks.

" XXVIII, for the repeal [illegible] the Usury Laws.

" XXIX, for amending A[illegible]o. VI of 1844.

" XXX, to repeal Section VII of Act No. XXVIII of 1839.

" XXXI, relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.

" XXXII, relating to Embankments.

" XXXIII, to prohibit the Exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.

" XXXIV, to explain and amend Act No. XXXIII of 1852.

" XXXV, to abolish the levy of Customs Duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal.

" XXXVI, to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces.

" XXXVII, to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.

" XXXVIII, to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed.

BENGAL SECRETARIAT LIBRARY

ACT No. I of 1855.

PASSED AY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 2nd February 1855.)

AN ACT *for providing for the exercise of certain powers by the Governor General during his absence from the Council of India.*

Preamble.

WHEREAS the Governor General in Council has declared that it is expedient that the Governor General should visit the Neilgherry Hills in the Presidency of Fort St. George, and other parts of India, unaccompanied by any Member of the Council of India, It is enacted as follows :—

Powers to be exercised by the Governor General during his absence from the Council of India.

I. During the absence of the Governor General from the Council of India, it shall be lawful for the Governor General alone to exercise all the powers which might be exercised by the Governor General in Council in every case in which the said Governor General may think it expedient to exercise those powers.

Commencement and duration of Act.

II. This Act shall commence from the day on which it shall be notified, by an order published in the official *Gazette*, that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid, and shall not continue in force for a longer period than one year.

BENGAL SECRETARIAT
LIBRARY

ACT No. II of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 2nd February 1855.)

An Act for the further improvement of the Law of Evidence.

WHEREAS it is expedient further to improve the Law of Evidence : It is enacted as follows:— Preamble.

Act repealed. I. Act No. X of 1835 is hereby repealed.

Judicial notice to be taken of all Acts and Regulations. II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice, and all persons having by law or consent of parties authority to take evidence, shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of Law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, whether the same be of a public or of a private nature.

Judicial notice to be taken of public Acts of Parliament.

What shall be *primâ facie* proof of a private Act. III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *primâ facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

IV. Every

IV. Every Court shall take judicial notice of its own Members and Officers respectively, and of their deputies and subordinate Officers or Assistants, and also of all Officers acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakeels, Pleaders, and other persons authorized by Law to act before it.

Judicial notice to be taken by Court of its own Officers, &c.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories :—Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice to be taken of the names, titles, &c. of certain persons.

VI. All such Courts and persons aforesaid shall take judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation, and termination of hostilities between the British Crown and any other State, and also of the existence, title, and national flag of every Sovereign or State recognized by the British Crown. In all the above cases, such Court or person may resort for its aid to appropriate books or documents of reference.

Judicial notice to be taken of divisions of time, place, &c.

VII. Any *Government Gazette* of any Country, Colony, or Dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proof of *Government Gazette*.

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *primâ facie* proof of any fact of a public nature which they were intended to notify.

Proof of Proclamations, Acts of State, &c.

Proclamations &c. when to be *primâ facie* proof of fact.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, hereafter to be passed, of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *primâ facie* evidence of the truth of the fact recited.

Recital in Act of a fact of a public nature to be *primâ facie* proof.

X. The *Gazette* or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation, or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *primâ facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Gazette &c. containing advertisement purporting to be published by authority, to be *primâ facie* evidence of such authority.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate.

Books, Maps, &c. to be evidence in matters of public history, &c.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Statutes, Code, or other written Law of such Country, and also printed and published Books of reports of decisions of the Courts of such Country, and Books proved to be commonly admitted in such Courts as evidence of the Law of such Country, shall be admissible before any such Courts or persons as aforesaid as evidence of the Law of such Foreign Country.

What Books &c. shall be evidence of Foreign Law.

XIII. All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated question, shall *primâ facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Government or public Maps, when to be *primâ facie* proof.

XIV. The following persons only shall be incompetent to testify.

Persons incompetent to testify.

1. Children under seven years of age who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Children.

2. Persons

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly ; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Insane persons.

Not to be summoned without leave of Court.

XV. Any person who, by reason of immature age or want of religious belief, or who, by reason of defect of religious belief, ought not, in the opinion of such Court or person, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Children and persons of defective religious belief to testify on simple affirmation.

XVI. The provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing as well as to testimony orally delivered.

Provisions as to witness to apply to affidavits, &c.

XVII. Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

Punishment for giving false evidence.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith, or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

No incompetency from interest in suit.

XIX. Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Courts of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except

Party to suit may be examined as a witness.

Proviso.

except under and subject to the rules prescribed in that behalf in Act XIX of 1853.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Husband or wife giving evidence.

Proviso.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Witness &c. not bound to produce document relating to State affairs.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, nor any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness he shall be bound to produce any such writing or correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Party to suit not bound to produce certain documents.

Unless he offers himself as a witness.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it, or cause it to be brought into Court, although there be a valid objection to the right of the party calling for it to compel its production or to the reading or putting it in as evidence, or to the disclosure of the contents thereof, the validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating

Witness summoned to produce a document must bring it into Court.

Mode of determining objection to production.

relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Document relating to affairs of State.

XXIV. A Barrister, Attorney, or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client; and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.

Professional communications.

XXV. Any person present in Court, whether a party or not, may be called upon and compelled by the Court to give evidence, and produce any document then and there in his actual possession, or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence, or to produce such document, and may be punished in like manner for any refusal to obey the order of the Court.

Persons present in Court to give evidence &c., though not summoned.

XXVI. Any person, whether a party to the suit or not, may be summoned to produce a document without being summoned to give evidence, and any person summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Person summoned to produce a document not bound to attend personally.

XXVII. The Rules of evidence in her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil Jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Rules of evidence in Supreme Courts on Ecclesiastical and Admiralty sides.

XXVIII. Except

XXVIII. Except in cases of treason, the direct evidence of one witness, who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Evidence of one witness sufficient proof.

Proviso.

XXIX. Where dying declarations are evidence, they shall be received if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained at the time of making it hope of recovery.

Dying declarations when admissible.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Party allowed to cross-examine and discredit his own witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the Suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge, or other Officer above-mentioned, under his hand or the Official Seal of the Court, or under the hand or Official Seal of such Judge, to be a true copy of such deposition or statement, without further proof, be received as *primâ facie* evidence that such deposition or statement was made and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Former statement admissible to corroborate a witness.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly

Witness bound to answer criminating questions.

directly or indirectly, to criminate such witness, or that it will expose, or tend, directly or indirectly, to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Proviso.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Witness may be examined as to conviction for felony.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he shall think fit.

Cross-examination as to previous written statements.

Proviso.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

Copy of a document made by a copying machine to be deemed correct.

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

Admission of secondary evidence where original document is out of the reach of process.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

When attested document may be proved as if unattested.

XXXVIII. The

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *primâ facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

Admission *primâ facie* proof of an attested document.

XXXIX. Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

Entry made against interest or in course of business when admissible in life-time of person making it.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number, or otherwise any Bank Notes or other Securities for the payment of money, or other property, and the payer-in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

Entry in course of business when admissible for purpose of identification.

XLI. Any receipt in writing, acknowledging the receipt of any money, valuable securities, or goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it but also against any person in whose favor such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security, or goods acknowledged to have been received.

Receipt when evidence against person other than the giver.

XLII. Whenever a receipt would be admissible under the preceding Section if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.

Receipt of agent.

XLIII. Books

XLIII. Books proved to have been regularly kept in the course of business or in any public office, shall be admissible as corroborative, but not as independent proof of the facts stated therein.

Books kept in course of business or in a public office admissible as corroborative evidence.

XLIV. The following documents may be admitted as corroborative evidence :—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit, or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

Documents admissible as corroborative evidence.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Refreshing memory of witness.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the premission of the Court, refer to a copy of such document, provided the Court or person, under the circumstances, be satisfied that there is sufficient reason for the non-production of the original.

Court may permit a copy of document to be used to refresh memory.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

Declarations of illegitimate persons &c. admissible in questions of pedigree.

XLVIII. On an inquiry whether a signature, writing, or seal is genuine, any undisputed signature, writing, or seal of the party, whose signature, writing, or seal is under dispute, may be compared with the disputed one, though such signature, writing, or seal be on an instrument which is not evidence in the cause.

Comparison of handwriting, &c.

XLIX. Any power of Attorney, which has been executed at a place distant more than one hundred miles from the place wherein the action, suit, or proceeding is depending, may be proved by the

Proof of Power of Attorney.

the production of it, without further proof, where it purports, on the face of it, to have been executed before, and authenticated by a Notary Public, or any Court, Judge, Consul, or Magistrate.

Proof of despatch of letter by Letter Book.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and despatched, and the Letter Book is produced, and it is proved that the letter was despatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the despatch of that letter according to the usual course of business.

What to be *primâ facie* proof of receipt of letter.

LI. Any book proved to have been kept for marking the despatch and receipt of letters, containing an entry of the despatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *primâ facie* evidence of the receipt of such letter.

Repeal of part of Section VI of Act XV of 1852.

LII. So much of Section VI of Act XV of 1852 as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Extension of Section XVI of Act VI of 1854.

LIII. The provision contained in the 16th Section of Act VI of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits, and proceedings on all sides of the Courts.

Extension of Section XVII of Act VI of 1854.

LIV. So much of the 17th Section of the same Act as provides that upon the hearing of any motion, petition, or other proceeding in any of the said Supreme Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall

shall extend to all civil actions, suits, and proceedings on all sides of the said Courts

Section XXXIII of Act VI of 1854 extended.

LV. The 33rd Section of the Act No. VI of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Proof of official documents.

LVI. Whenever by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes it evidence, shall be *primâ facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character, or authority, which it is directed to have, or from which it is directed to proceed.

No new trial for rejection or improper reception of evidence.

LVII. The improper admission or rejection of evidence shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

Act not to render inadmissible evidence now admitted in the Company's Courts.

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

ACT No. III. of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 2nd February 1855.)

AN ACT *for the better prevention of desertion from the Indian Navy.*

Preamble.

WHEREAS it is expedient to amend and extend the laws in force for apprehending and detaining deserters from the Indian Navy and for punishing persons who aid and encourage such desertion, It is hereby enacted as follows:—

Repeal of Article 4 of Bombay Rule, Ordinance, and Regulation of July 1820.

I. Article 4 of a Rule, Ordinance, and Regulation for the Port of Bombay, passed by the Governor in Council and registered in the Court of the Recorder on the 11th day of July 1820, is hereby repealed in so far as it relates to Seamen of the Indian Navy.

Penalty for instigating desertion from the Indian Navy or concealing deserter.

II. Whoever, directly or indirectly, instigates or procures any Officer, Seaman, or other person belonging to the Indian Navy to desert, or knowing that any Officer, Seaman, or other person belonging to the Indian Navy is about to desert, assists him in deserting; or knowing any Officer, Seaman, or other person belonging to the Indian Navy to be a deserter, harbours, conceals or assists in concealing such deserter, shall, for every such offence, be liable to a fine not exceeding one thousand Rupees.

Penalty on Master in certain cases, if a deserter be concealed on board his ship.

III. If it shall appear that a deserter has been concealed on board any Merchant Vessel, and that the Master or person in charge of such Vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such Master or person, or for the want of proper discipline on board his Vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always that no conviction for such minor offence as is lastly hereinbefore described, shall be lawful

ful unless the same shall be stated in the charge which the party is called upon to answer, and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his Vessel, or has, by neglect of duty, or by reason of the want of proper discipline on board the Vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.

IV. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any Port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not; and any person hereby made punishable by a Justice of the Peace, shall be punishable on summary conviction.

Jurisdiction.

V. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken or a copy of them shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only; form of conviction, &c.

VI. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other Officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV. of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Saving of proceedings under Act No. XIV. of 1849.

Proviso.

VII. Whenever,

VII. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commander-in-Chief of the Indian Navy, or other person who shall be in the performance of the duties of Superintendent of the Indian Navy, or his Deputy, or, in their absence, to the Senior Officer of the Indian Navy at any Port or place within the territories of the East India Company, which oath or affirmation the several persons above-named shall severally under this Act have power to administer, or whenever on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate; having jurisdiction within such Port or place, there shall appear reason to suspect that any Officer, Seaman, or other person belonging to the Indian Navy, who may have deserted or be absent without leave, is on board any Ship, Vessel, or Boat, or is concealed on shore at any such Port or place within the territories of the East India Company, it shall be lawful for such Commander-in-Chief of the Indian Navy, or person performing the duties of Superintendent of the Indian Navy, or his Deputy, or such Senior Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a Warrant authorizing the person or persons to whom such Warrant may be addressed to enter into and search, at any time of the day or night, any such Ship, Vessel, or Boat, or any house or place on shore, and to apprehend any such Officer, Seaman, or person belonging to the Indian Navy, and to detain him in custody in order to his being dealt with according to Law.

Commander-in-Chief of Indian Navy, &c., may issue Warrants for apprehension of deserters.

VIII. The Warrant to be issued under the preceding Section may be addressed to any persons in the Indian Navy, or to all Constables, Peace Officers, and other persons who may be bound to execute the Warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such Warrant.

Warrant to whom to be addressed, and by whom to be executed.

IX. Every person who shall be apprehended as a deserter from the Indian Navy, under any Warrant under the 7th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or near the place wherein such

Persons apprehended how to be dealt with, &c.

such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the Indian Navy, shall cause him to be placed on board some Vessel of the Indian Navy, in order that he may be dealt with according to law; and if there shall be no such Vessel in or near the place wherein such deserter shall have been apprehended, shall cause such deserter to be conveyed to the nearest or most convenient prison, and to be detained there until he can be placed on board a Vessel of the Indian Navy for such purpose as aforesaid: and in every case in which any person shall be committed to prison as aforesaid, the committing Magistrate shall transmit an account thereof to the Commander-in-Chief of the Indian Navy or to the Officer commanding some Vessel of the Indian Navy; and every person so committed to prison shall be entitled to his discharge from custody under such commitment, unless within three months from the date thereof he shall, on the requisition of the said Commander-in-Chief, or such other Officer as aforesaid, have been placed on board one of the Vessels of the Indian Navy in order that he may be dealt with according to Law.

BENGAL SECRETARIAT LIBRARY

ACT No. IV. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 10th February 1855.)

An Act for incorporating for a further period, and for giving further powers to the Assam Company.

Preamble.

WHEREAS by Act No. XIX. of 1845, the Assam Company was incorporated and it was thereby enacted that the Act should continue in force until the 30th day of April 1854. And whereas by Act No. XIV. of 1854, the operation of the above Act was continued until the 30th day of April 1855. And whereas it is expedient that the said Company should be incorporated for a period of twenty years to commence from the passing of this Act, and should have the powers, and be subject to the provisions, hereinafter contained. It is enacted as follows:

Act No. XIV. of 1854 repealed.

Act No. XIV. of 1854 is hereby repealed except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

"Assam Company" incorporated for 20 years.

II. The several persons and corporations who now are and shall hereafter become proprietors or shareholders of the said Assam Company, and their respective successors, executors, administrators, and assigns, shall be and continue for the term of twenty years from the passing of this Act, a Company for the purposes herein declared, and shall, during such time, constitute and be one body corporate by the name and style of "The Assam Company," and shall have a common seal, and by that name shall and may sue and be sued.

Company empowered to hold land for the cultivation of the tea plant and other products.

III. It shall be lawful for the said Company to carry on, prosecute, and extend the cultivation of the tea plant in the lands which have already been granted to, and all and every the lands which may be taken by, or granted to the said Company in Assam and the North East parts of India, and to manufacture and dispose of the tea, the growth thereof, and generally

to

to carry on the business of cultivating the tea plant, and manufacturing or preparing the same for sale and exportation, and also (if they shall deem it advisable) to engage in, prosecute, carry on, or extend the cultivation, manufacture, and preparation of all or any such other products of land, save as hereinafter excepted, as may be found expedient, and for such purposes to take and hold and make any such grants, leases, and purchases, and other acquisitions of land for any term of years as the Governor General in Council shall approve; such approval to be signified in writing under the hand of one of the Secretaries to the Government of India: and if requisite to sell, dispose of, and alienate the same or any part thereof respectively: and to form, erect and make all such establishments, buildings, works, and conveniences as the said Company shall think proper, and generally to use all such other ways and means as to the said Company shall seem meet for carrying into effect the objects aforesaid. Provided always that the said Company shall not engage in or prosecute the manufacture of salt or the cultivation or preparation of opium without the special license of the Local Government first obtained.

Proviso.

IV. The capital of the said Company shall consist of Company's Rupees 5,000,000 to be contributed in 10,000 shares of Company's Rupees 500 each, which shall be the original capital of the said Company, and of such further sum as may be raised by the creation and sale of new shares as hereinafter provided for. Provided always that it shall and may be lawful for the said Company at any time, and from time to time, to increase the capital of the said Company to any amount not exceeding one crore of Company's Rupees altogether, by the issue of fresh shares of Company's Rupees 500 each upon such terms as to them shall seem fit.

Capital of the Company.

Proviso.

V. It shall not be lawful for the said Company to raise money by way of loan to a greater amount than one-fifth of the capital of the said Company.

Power to raise money by loan.

VI. All and every the grants of land already made, obtained, or contracted for by the said Company, and the plantations and works made and erected thereon, and the produce thereof, and all offices, warehouses, and buildings, and all articles whatsoever thereupon or appertaining thereto or used therewith; and all property, real and personal, goods, articles, and things whatsoever purchased, taken,

All property vested in the incorporated Company.

taken, bought, grown, produced, or otherwise acquired for the purposes of the said Company, and all the estate, right, title, and interest whatsoever therein both at law and in equity to all intents and purposes shall henceforth vest in and belong to the said "Assam Company" and their successors in their corporate capacity; and no individual subscriber or shareholder thereof shall, as such, have or pretend to any estate, ownership, or right of property therein.

Power to make Bye-laws. Bye-laws of former Company to continue in force.

VII. The said Company shall have full power to make and constitute any bye-laws, rules, and regulations not repugnant to Law or to this Act, for and relating to the government and affairs of the Company and for the government and guidance of the Directors and Officers, and from time to time abrogate, alter, and vary the same; and such of the provisions of the deed of co-partnership or settlement of the said Company bearing date the 31st day of January 1840, as have not since been altered or abrogated, and other the rules, bye-laws, and regulations of the said Assam Company now in force shall, until duly altered or abrogated, constitute and be the first bye-laws, rules, and regulations of the said Company under this Act and shall have and take effect as such so far and in such particulars as the same are not repugnant to law or to this Act.

Time and mode of holding general and extraordinary meetings.

VIII. A general meeting of the said Company shall be held at the principal office or place of business of the said Company at Calcutta twice at the least in every year, and oftener, when and if need shall be; the time of holding which periodical meetings, and the form and mode of requisition for holding special or extraordinary meetings, and of advertizing and giving notice thereof respectively, shall be settled and determined by the bye-laws or rules of the said Company: and at all such meetings, whether periodical or special, every proprietor holding 5 shares and less than 20 shares shall be entitled to 1 vote, and every proprieter holding 20 and less than 50 shares to 2 votes, and every proprietor holding 50 and less than 100 shares to 3 votes, and every proprietor holding 100 shares and upwards to 4 votes and no more; but no proprietor shall be entitled to vote who shall not hold at least 5 shares, provided, however, that the shares in respect of which any proprietor shall claim to vote shall have been held for such period of time as is or shall be required by the bye-laws, rules

Number of votes.

rules, and regulations of the said Company. Provided also and it is hereby enacted, that votes given by proxy according to any bye-law, rule, or regulation of the said Company, shall be deemed to be as valid and effectual as if given in person.

Votes by Proxy.

IX. At such general meetings as aforesaid, the books and accounts of the said Company shall be produced and exhibited for the inspection, examination, and approval of the subscribers or shareholders at large, and at each of such general meetings there shall be produced and presented by the Directors, or other officers of the said Company for the time being, a true account in abstract and balance sheet showing the whole of the receipts and disbursements and operations of the said Company commencing from the date of their next preceding general meeting and account brought down to the date of holding such general meeting at which the same shall be produced, or as near thereto as conveniently may be, and such abstract, account, and balance sheet when examined, approved, or passed by such or any subsequent meeting, shall immediately be published in the *Calcutta Government Gazette* and in two public Newspapers of general circulation at Calcutta.

Account books and balance sheet to be produced at general meetings.

Balance sheet to be published in *Gazette*.

X. A certificate signed by two at least of the Directors of the said Company shall, upon request, be delivered to every proprietor or shareholder of the said Company, and the shares of the said Company shall be transferable only by the execution of a deed or instrument of transfer in the form provided and sanctioned by the Directors for the time being of the said Assam Company. Provided always that no such deed or instrument shall be effectual to transfer any share in the said Company until compliance with the provisions of the deed of co-partnership of the said Company bearing date the 31st day of January 1840, and all the bye-laws, rules, and regulations of the said Company, and until a memorandum or note of such transfer shall have been registered in the registry kept for that purpose at the office in Calcutta of the said Company, and until the name of the transferree of such share shall have been entered in the share register book of the said Company as the proprietor thereof.

Certificate of Share.

Share to be transferred by deed, &c.

Proviso.

Registry of transfer.

XI. The

Shares to be deemed personal property.

XI. The shares of and in the said Company shall, as between the several proprietors thereof and their real and personal representatives and all other persons claiming under them, be deemed to be personal estate to all intents and purposes whatsoever and be transmitted and transmissible and disposed of accordingly.

Bye-laws to direct the mode of payment by instalments of unpaid shares.

XII. For the purpose of satisfying any demands upon the said Company, or for the purpose of raising any further capital that shall become requisite for the purpose aforesaid, the several subscribers or shareholders shall pay up the whole or any part of the unpaid amount of their respective shares by instalments to be called for by such persons in such manner, and to be paid at such times and places and manner as shall be appointed for that purpose by any bye-law or regulation of the said Company.

Bye-laws may direct interest to be charged on unpaid instalments, or forfeiture of shares.

XIII. It shall be lawful for the said Company by bye-law or regulation to provide that, if any such instalment be not paid on or before the day fixed for the payment thereof, interest after any legal rate to be appointed by such bye-law or regulation shall be paid upon such instalment from such day up to the day when the same shall be actually paid, and the amount of any such call with interest shall be a debt due to the said Company, and it shall be lawful for the said Company in like manner to make any provision or provisions for the forfeiture of any share or shares on the non-payment of any such instalment and interest, or the restoration of any forfeited share or shares. Provided that no such forfeiture shall be incurred until after default shall have been made for at least 3 calendar months.

Proviso.

Contracts, &c., made prior to this Act, to be binding.

XIV. The said Company shall have the benefit of and shall be bound by all the contracts, acts, deeds, matters, and things which, up to the passing of this Act, have been legally made, done, executed, or performed under or by virtue of the said Acts No. XIX. of 1845 or No. XIV. of 1854 or the said deed of the 31st January 1840, and shall and may, in manner herein mentioned and provided, sue and be sued thereon, and in respect thereof, and shall have and be subject to the like rights and liabilities in respect thereof as the said Assam Company or the members thereof would have had and been subject to under or by virtue of the said Acts.

XV. A copy

XV. A copy of the original deed of association of the said Company, and copies of all rules, orders, bye-laws, regulations, or proceedings of the said Company or other instruments whatsoever, whereby any change shall have been, or shall at any time be made by the authority of the said Company in the provisions of the said original deed of settlement or co-partnership bearing date the 31st day of January 1840, shall be kept at the office of the said Company in Calcutta and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of each such rule, order, bye-law, regulation, proceeding, or instrument as aforesaid shall also be deposited by the said Company, as soon as it can be done after the passing of this Act, or after the making of any such rule, order, bye-law, regulation, proceeding, or instrument hereafter to be made, in the office of the Prothonotary of the Supreme Court of Judicature at Fort William aforesaid, and shall be there filed, and be and remain open to the inspection of all persons during the usual hours of such office; and an examined copy of each such filed copy as aforesaid, certified by and under the hand of the Prothonotary for the time being of the said Supreme Court, shall be good and sufficient evidence of each such original deed, rule, order, bye-law, regulation, proceeding, or instrument in all actions, suits, and proceedings whatsoever, whether Civil or Criminal, to be had in any Court of Justice, or before any Magistrate or other Officer, whether acting judicially or in any proceedings preliminary to a judicial inquiry, throughout the territories for which the Governor General of India in Council has power to legislate.

Copies of the Original deed of association and of all rules, &c. to be kept for inspection at the office of the Company and in the Prothonotary's Office at the Supreme Court.

Examined copies to be evidence.

XVI. The said Company shall cause the name of each and every Director of the said Company, and also the name and proper official description of each and every Officer of the said Company and of every person acting and officiating for the time being as such Officer, to be entered in a Book to be kept at the said principal office in Calcutta of the said Company, to be there open to the inspection of all persons during the usual hours of business of the said office, and shall also, within six months from the time of passing this Act, cause a memorial of the said names and descriptions respectively to be enrolled in the said office of the Prothonotary of the said Court, and a fresh memorial thereof to be from time to time enrolled

Names of Directors and Officers to be entered in a book at the office and to be enrolled from time to time in the Prothonotary's Office.

enrolled and within 12 months after any change or changes shall be made or take place either in the direction aforesaid or in any of the said offices.

Names of shareholders and all transfers of shares to be registered.

XVII. The said Company shall cause the names, places of residence or business, and descriptions of the business, profession, or employment of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor to be registered in a book and numbered in a regular consecutive series beginning with No. I, and such book shall be kept at the said office in Calcutta of the said Company, and shall there be open to the inspection of all persons during the usual hours of business, and each successive transfer or change of ownership in the share or shares shall be entered in the manner above-mentioned with the like particulars above-mentioned in the said book, and against the original entry of such share or shares shall be entered a note of every such change of ownership or transfer, with a sufficient reference to the place or places in such book wherein is or are made the entry or entries of the name or names, place or places of residence or business, and descriptions of the proprietor or proprietors to whom or in whose favor such transfer or change, transfers or changes, shall have been made or had from time to time as aforesaid.

Company how to sue and be sued, &c.

Process to be only against the corporate stock, &c.

XVIII. The said Company shall sue and be sued and described in and by its said coporate name and not otherwise, in all proceedings whatsoever, whether Civil or of a Penal or Criminal or other character, and whether the same be the proceedings of any Court, or of any Magistrate or other officer or person executing any inquiry either preliminary to, or in the nature of a judicial investigation or inquiry, and shall for all purposes of jurisdiction be capable of suing and proceeding and be liable to be sued and proceeded against in its said corporate name, character, and capacity in and before any Court, Magistrate, Officer, or person within any of the territories under the Government of the East India Company in respect of all matters and things over which such Court, Magistrate, Officer, or person respectively may have jurisdiction, and to the extent of such jurisdiction in like manner as the same may for the time being be there had by or against any British subject or subjects within the said territories. Provided always that no process or proceedings whatsoever, whether of a mesne or final or other nature, shall be had against

Proviso.

against the person or property of any individual members, shareholders, or subscribers of the said Company, either for the purpose of giving notice of any suit or proceeding, or of effecting any appearance to any suit or proceeding, or of obtaining payment or satisfaction of any debt, claim, or demand against the said Company, or of levying any fine or penalty awarded against the said Company, or of obtaining payment or satisfaction of any judgment, decree, award, order, or determination against the said Company, or for any like purpose, but that all such process and proceedings of what nature soever shall be had solely against the said Company or the corporate stock, property, and effects of the said Company.

Service of process, &c. on Secretary, sufficient.

XIX. The service of all mesne and other process rules and orders and all notices whatsoever, which by law, or by the practice of any Court wherein the said Company shall sue or be sued or otherwise, are required to be made, served or given for any purpose whatsoever to the said Company, shall and may be made, served and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, upon or to the Secretary for the time being of the said Company resident in Calcutta or the person or persons acting and officiating as such, or by leaving the same addressed to the said Secretary or person acting and officiating as such at the principal office or place of business in Calcutta of the said Company

Duration of Act.

XX. This Act shall continue in force for a period of twenty years to commence from the passing hereof.

ACT No. V. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 17th February 1855.)

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

Preamble.

WHEREAS it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases which are contained in Act No. XXV. of 1841: It is enacted as follows:—

Process of contempt not to issue to compel performance of decree, &c., to pay money or to execute a deed, &c.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

Party in default, after judgment or order to pay money or costs, to be proceeded against by *Ca. Sa.* or *Fi. Fa.* &c.

II. Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias* or *Venditioni*

Venditioni Exponas, according to the course and practice of the Court as the same shall be settled by the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

Proviso.

III. The Sheriff shall pay the money which he may levy under any execution, either to the party named in the writ in satisfaction of his demand, or into court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

Sheriff how to deal with money levied.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal, would have the means of performing; and such person has refused or neglected to obey such direction or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other Officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person by whom the same ought to have been executed, made, or done: and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an Officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

Power to the Court to appoint an Officer to execute instrument, or to do any act for the person who has been ordered but has failed to execute or do the same.

V. If

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its Officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument, or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same.

Or in certain cases to dispense with the execution of an instrument or the signature of a writing.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take such chattel, security, books, papers, writings, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued. But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.

The Court empowered to enforce the delivery of any immoveable property or any specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.

Proviso.

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Repeal of 1st and 2nd Sections of Act XXV. of 1841.

VIII. Nothing

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise be enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Power reserved to issue process of contempt to compel obedience to orders which cannot be otherwise enforced.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the Rules or orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Court may frame writs of execution.

X. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

Interpretation Clause.

XI. This Act shall take effect from the 1st day of May next.

Commencement of the Act.

ACT No. VI. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 17th February 1855.)

An Act to extend the operation of, and regulate the mode of executing Writs of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

WHEREAS it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases, It is enacted as follows :—

Sheriff empowered under any writ of *fieri facias* issued on any side of Supreme Court to seize and sell immoveable property.

I. *Clause* 1. Under any writ of *fieri facias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

When property is in possession of judgment debtor, sheriff to put purchaser in possession.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

When property is not in possession of judgment debtor, sheriff not to seize but to sell debtor's interest.

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Effect of conveyance.

Sale when to be notified to Judge of District.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially proclaimed,

Proclamation of same.

proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bonâ fide* purchaser.

Notice of sale when to be published in the office of Collector, &c.

Length of time for publication of notice.

Proviso.

II. If any lands, houses or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

In what case judgment debt may be raised by mortgage instead of sale.

III. Under any such writ of *fieri facias* may also be seized money bank-notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money and also debts belonging to the said person; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall, with

Sheriff empowered under any such writ of *fieri facias* to seize money, bank-notes, &c,

And to pay money or bank-notes to execution creditor.

with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondees, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid when the time of payment thereof shall have arrived; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondee, bond, security, and debt; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied; and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondee, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or, if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, &c.

And to sue in his own name for amount secured by bills of exchange, &c.

Or for debts.

Proviso as to indemnity for Sheriff.

IV. If

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

Sheriff empowered to receive interest on Government security seized by him.

And to sell, and where endorsement necessary, to endorse such security.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

No debt to be sold by Sheriff.

VI. If any person against whom any writ of execution shall have issued, shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with the payment of the amount due in respect of such writ of execution; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution shall have been issued; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have the like effect and shall entitle the person in whose favor such order is made to the same

Shares in public Company may be charged in execution

same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made or any other person affected thereby, from applying to the Court or Judge by whom such order has been made for its discharge on such grounds as may be just.

Proviso.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interest, or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Property standing in name of any officer of Court.

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such party or his attorney in the cause, or to the Sheriff or Gaoler in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

Party arrested under a *ca. sa.* entitled to discharge on payment or tender of the amount of levy to opposite party or his attorney or to Sheriff or Gaoler.

IX. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

Written order of attorney issuing *ca. sa.* sufficient for the discharge of a party by Sheriff or Gaoler, unless the client shall give written notice to the contrary.

Attorney not justified in giving order for discharge without the consent of his client.

X. A

Sheriff not to be liable for escape, &c. beyond the amount of the loss really occasioned.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

Writ of execution, if unexecuted, not to remain in force more than one year unless renewed.

But may be renewed from time to time.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ by being marked with the seal of the Court and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a judge.

Renewed writ entitled to same priority as its original.

Proviso as to writ of *Habere*.

Production of writ or of notice of renewal sufficient evidence of renewal.

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Under a writ of sequestration all property may be seized in like manner as under a *fieri facias*.

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration, shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Sum ordered to be realized may be levied as under a *fieri facias*.

XIV. The

Interpretation clause.

XIV. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts," shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

ACT No. VII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 17th February 1855.)

An Act to amend the law of Arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

Preamble.

WHEREAS it is expedient to amend the law of arrest in the Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay and in the Court of Judicature of Prince of Wales' Island, Singapore and Malacca: It is hereby enacted as follows:—

No arrest upon Mesne Process without order of Court or Judge.

I. No person shall be arrested or held to bail upon mesne process in any action at law now pending or which shall be commenced in any of the said Courts, unless an order authorizing such arrest be made by the Court in which the action is pending or shall be commenced, or by one of the Judges thereof:

Granting of order to be discretionary.

and it shall be in the discretion of the Court or Judge in any case to grant or refuse an order.

No order for arrest to be made without affidavit of debt or damage to the amount of 200 Rupees and probable cause for believing—

II. Provided that no such order shall be made unless the Court or Judge shall be satisfied by Affidavit of the plaintiff or of some other person, that the plaintiff has a good cause of action against the defendant to the amount of two hundred Rupees or upwards either for debt or for damages, and in addition thereto, that there is probable cause for believing—

That defendant is concealing himself to avoid service of process, or is about to abscond, &c.

1,—That the defendant has absconded or is concealing himself for the purpose of avoiding service of the process of the Court, or that he is about so to do, or—

2,—That

2,—That he has withdrawn or is about to withdraw himself or his property or effects, or some part thereof, from the jurisdiction of the Court, for the purpose of avoiding the process of the Court, or under such other circumstances as to induce the Court or Judge to believe that the ends of justice are likely to be defeated unless a Capias or Warrant of Arrest be issued against him, or—

That he is removing his property to avoid process.

3,—That he has removed, concealed or disposed of his property or effects, or some part thereof, for the purpose of defrauding his creditors generally or the plaintiff in the action, or that he is about to do so.

That he has disposed or means to dispose of his property to defraud creditors.

III. An order for arrest may be made, and a Capias or Warrant may be issued thereon, in any stage of the cause before final judgment, and against one or more of several defendants.

Order for arrest in any stage of cause and against one of several defendants.

IV. Previously to making such order, the Court or Judge may require the personal attendance of the plaintiff, and of any person who shall make an Affidavit for the purpose of obtaining such order, and of any other person whom the Court or Judge shall think fit to examine, and may examine them orally upon oath.

Before making order Court may examine plaintiff or other person.

V. A copy of every Affidavit upon which such order shall be founded shall be delivered to the Sheriff with the Writ or Warrant to be issued in pursuance of the order, and shall be delivered to the defendant at the time of his arrest or detention under the Writ, otherwise the Court or Judge may order the defendant to be discharged.

Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest.

VI. Any person arrested or detained upon any such Writ of Capias or Warrant of Arrest, may apply to the Court or to a Judge thereof for a rule or summons calling on the plaintiff to show cause why the person arrested should not be discharged out of custody, and the Court may make absolute or discharge such rule, and may direct the costs of the application to be paid by either party or may make such other order as to the Court shall seem fit; and in the case of a summons, a Judge shall make such

Person arrested may apply to Court or Judge for his discharge.

such order thereupon as he shall think fit. Provided that such rule shall be made absolute, or in the case of a summons an order for the defendant's discharge out of custody shall be made, in every case in which the Court or Judge shall be satisfied that the plaintiff, in any stage of the cause subsequent to the arrest, has been guilty of unreasonable delay in pleading or in bringing on for trial or argument any issue of fact or law, notwithstanding the delay may not be such as to entitle the defendant to sign judgment of Non Pros., or to apply for judgment as in case of a nonsuit; and provided also that any order made by a Judge under this Act may be discharged or varied by the Court on application made thereto by either party dissatisfied with the order.

Person arrested to be discharged if plaintiff is guilty of delay after arrest.

Judge's order may be discharged &c. by Court.

VII. If any motion or application for the discharge of a defendant be made upon Affidavit, but not otherwise, the plaintiff may oppose the same by affidavits in addition to that upon which the order for the arrest was made.

If motion for discharge be made upon affidavit, plaintiff may oppose it by further affidavits.

VIII. The Court or Judge may order and compel the personal attendance at the hearing of any motion or summons of both or either of the parties, and also of any other person whom the Court or Judge shall think fit to examine, and may examine such person or persons orally upon oath, or may allow him or them to be examined and cross-examined upon oath, and the Sheriff or Gaoler shall be bound to bring before the Court or Judge any prisoner detained in his custody on Civil process, whose attendance may be so ordered.

At the hearing of the motion, Court may compel attendance of the parties or witnesses.

Attendance of person in custody on Civil process.

IX. Every person now in custody upon mesne process issued out of any of the said Courts of Judicature for any debt or demand, and who shall not have filed a petition to be discharged under the laws in force for the relief of Insolvent Debtors in India, shall be entitled to his discharge at the expiration of one month from the time of the passing of this Act, upon entering a common appearance to the action: Provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested by virtue of any writ of Capias or Warrant of Arrest issued in pursuance of the provisions of this Act.

Persons now in custody on mesne process how entitled to their discharge.

Proviso.

X. *Clause* 1.—The

X. *Clause* 1.—The person at whose suit any such mesne process or any writ of execution for the arrest of a defendant or any writ of attachment for the arrest of any person for the non-payment of money in the nature of Civil process shall be issued out of any of the said Courts, shall, previously to the arrest being made, deposit with the Sheriff or other officer to whom such mesne process or writ shall be delivered for the purpose of executing the same, a sum of money sufficient to provide for the subsistence of the defendant for the period of thirty days at the rate of four annas a day, which sum or so much thereof as shall be necessary shall be applied by the Sheriff or other officer for the subsistence of the person arrested from the time of the arrest until he shall be lodged in gaol, and the balance, if any, shall be deposited by such Sheriff or other officer with the keeper of the gaol to which the person arrested shall be committed.

Deposit of subsistence money before arrest on mesne or final process or by attachment—amount and application thereof.

Clause 2.—The Sheriff or such other officer by whom an arrest shall be made by virtue of any such writ or process, shall, before or forthwith after the defendant shall be lodged in gaol, give notice of the arrest and of the date on which the same was made to the plaintiff or his attorney.

Sheriff to give plaintiff notice of arrest.

Clause 3.—The person at whose suit such mesne process, writ of execution or attachment shall be issued shall, at or before the end of thirty days from the date of the arrest, or within a reasonable time after he shall have had notice of the arrest, if he shall not have had notice thereof within such period of thirty days, deposit with the Sheriff or with the keeper of the prison in which the person arrested shall be lodged, a further sum at the rate aforesaid for the subsistence of the prisoner for the next ensuing thirty days, and shall continue to make a similar deposit in advance at or before the end of such period of thirty days and of every subsequent period of thirty days during which the prisoner shall be detained in custody, and for every such deposit the Sheriff or keeper of the gaol or other officer as the case may be shall give a receipt for the same dated on the day on which the money shall be paid.

Further deposit of subsistence money after the arrest and during detainer.

Receipt for deposit.

Clause 4.—It shall be lawful for the Court out of which any such writ shall issue or for any Judge thereof to reduce the rate at which deposits are above ordered to be made, so that the rate ordered be not less than one anna a day, or in the

Rate of deposit may be varied by Court out of which writ issues.

case

case of illness or other special cause to order the deposit to be increased to a rate not exceeding eight annas a day; and every such order may from time time be revised and altered by the Court or any Judge thereof on sufficient grounds being shown.

Deposit must be made before arrest.

Clause 5.—If the deposit required to be made previously to the arrest, be not made, no arrest shall be made. If any deposit hereby required to be made after the arrest, be not made on or before the day on which it ought to be made, the Court may, upon the application of the prisoner, order him to be discharged out of custody.

Person arrested to be discharged if subsequent deposit not duly made.

Such discharge of a prisoner in execution not to affect his liability.

Clause 6.—If any prisoner in execution be discharged out of custody by reason of a failure to make such deposit as aforesaid, the imprisonment shall not extinguish or affect his liability to pay the amount of any sum of money for which he was arrested, or to prevent any execution from being issued against his property.

Provisions of these Clauses to whom applicable.

Clause 7.—The provisions of this Act are to be held applicable to all persons at present in confinement under Civil process, so far as relates to the deposit to be made in future by the parties at whose instance they are confined and to their immediate discharge on failure to make such deposit on or before the day on which it becomes due—The first deposit to be made within thirty days after the passing of this Act.

Deposit to be applied for subsistence of prisoner.

Clause 8.—The money so deposited shall be employed for the subsistence of the prisoner.

Amount spent in subsistence of prisoner obtained on mesne process to be costs in the cause.

Clause 9.—The amount spent in providing subsistence for a prisoner detained upon mesne process shall be costs in the cause.

Amount spent in subsistence of prisoner detained in execution to be added to the judgment.

Clause 10.—The amount spent in providing subsistence for a prisoner detained in execution shall be added to the amount of the judgment, and the prisoner shall be liable to be detained in execution for the amount, in the same manner as if such amount had been included in the Judgment and Writ of execution.

Clause 11.—The

Clause 11.—The amount spent in providing subsistence for any person detained under any such writ of attachment as aforesaid, shall be deemed part of the demand in respect of which the attachment was issued, and shall subject the prisoner to the same liability as if the attachment had been issued for the non-payment thereof to the person making the deposit.

Amount spent in subsistence of person detained under attachment shall be deemed part of the demand.

Clause 12.—All money deposited as aforesaid which shall not have been spent at the time of the prisoner's discharge from custody, shall be returned to the person who made the deposit.

Return of unspent deposit money.

XI. Any order of the Court or of a Judge for the discharge of a prisoner under the provisions of this Act, shall be a sufficient authority to the Sheriff and Gaolar for such discharge, so far as concerns the action or suit to which such order relates. Provided that, when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the Officer of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.

Effect of order for discharge of prisoner.

Proviso.

XII. It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff shall be bound to serve any rule, summons or order made under this Act which the Court or Judge shall order him to serve.

Keeper of prison, &c. when to report to Court the name of prisoner—proceedings thereupon.

Service of rule, &c. by Sheriff.

XIII. Any rule or order made in pursuance of the provisions of this Act shall be a sufficient justification for any Sheriff, Gaoler or other Officer for any act which he may do in pursuance thereof.

Order under this Act to be sufficient justification to Sheriff, &c.

XIV. In

Construction of Act.

XIV. In the construction of this Act, the word "Affidavit" and the word "Oath" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is anything in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.

Act not to affect rules of Court not inconsistent herewith, or provisions of Insolvent Debtor's Act.

XV. Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts not inconsistent herewith or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.

Equivalents for dollars and cents in the application of Act to the Straits' Settlement.

XVI. In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a dollar shall be deemed equal to two rupees and one-fifth of a rupee and three cents shall be deemed equal to one anna.

ACT No. VIII. of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 17th February 1855.)

An Act to amend the law relating to the office and duties of Administrator General.

Preamble.

Whereas it is expedient to amend the law relating to the office and duties of Administrator General, It is enacted as follows :—

Designation of the Administrators General in the three Presidencies.

I. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

Appointment, suspension and removal of Administrators General.

II. Such officers shall be appointed and may be suspended or removed by the authorities hereinafter mentioned respectively, that is to say,

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Governments of those Presidencies respectively.

Continuance of existing incumbents.

III. Any person now holding the office of Administrator General at any of the said Presidencies, shall continue to hold the same, subject to the provisions of this Act.

Administrator General not to be deemed an officer of the Supreme Court.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

V. All

V. All letters of administration, which, since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in, or belonging to the said Ecclesiastical Registrar, or under his control, by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act as if they had been granted to him as Administrator General.

Letters of administration granted to the Ecclesiastical Registrar of the Madras Supreme Court since Act II. of 1850, and Estates, &c. transferred to Administrator General.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With that exception, no person now holding the office of Administrator General, or hereafter to be appointed to such office, in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office, together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administrator General of Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

The present Administrator General of Madras may hold the office of Ecclesiastical Registrar.

Otherwise no Administrator General to be Ecclesiastical Registrar.

Administrator General not to hold any other office without sanction of Government.

Proviso.

VII. Unless the Governor General of India in Council or the Government with the sanction of the Governor General of India in Council shall otherwise order, every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lakh of Rupees by his own bond and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Governmont, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another

Security to be given by Administrator General.

Substitution of Security or Sureties.

another previously given for such last mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.

No Security to be required by Supreme Court on grant of letters to Administrator General.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

Administrator General entitled to letters of administration, unless granted to next of kin of deceased.

IX. Any letters of administration, or letters *ad colligenda bona*, which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

Administrator General entitled in preference to creditor or friend.

Construction of words "next of kin."

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other Officer of any of the said Courts, shall, by reason of his office, be deemed entitled to any letters of administration or *ad colligenda bona*, or have any grant thereof made to him.

Ecclesiastical Registrar not to be entitled to administration by reason of his office.

When administration of estates of persons other than Mahomedans or Hindoos is to be by Administrator General.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left assets exceeding the value of five hundred Rupees within any of the said Presidencies, or any of the Provinces or places subject thereto,

thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall, within one month after his death, have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

Proviso as to assets under Act XX. of 1841.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at any of the said Presidencies, it shall be lawful for the Court, upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin, or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Upon death of any person leaving assets within local limits, the Court may, if assets are in danger, direct Administrator General to apply for administration.

XIII. Section XX. Act No. XIX. of 1841 is hereby repealed, except as to acts done and except as to any case in which an order shall have been made before the commencement of this Act.

Repeal of Section 20 Act XIX. of 1841.

XIV. Whenever

XIV. Whenever any person, whether a Mahomedan or Hindoo or not, shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one per cent. upon the amount of all personal assets collected or received by him in pursuance of such order; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section, shall entitle the Administrator General to collect and to take possession of such property, and if necessary, to maintain an action for the recovery thereof.

Upon death of any person leaving property within local limits, Court may, if property is in danger, enjoin Administrator General to collect and hold the same until right of succession or administration is ascertained.

Rate of Commission payable in such case.

XV. The Administrator General of the Presidency may be appointed an official Trustee under Act No. XVII. of 1843.

Administrator General may be Official Trustee under Act XVII. of 1843.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Sec. XI. or Sec. XII. of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the court and prove the will and accept the office of executor, or if any person shall appear according to such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of

Probate to be granted to executor appearing in the course of proceedings taken by Administrator General to obtain administration.

the

the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary expenses thereof.

Costs of proceedings taken by the Administrator General to be paid out of the estate.

XVII. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of Administration to the Administrator General. Provided that, in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

If no executor or next of kin appear or give necessary security, letters of administration to be granted to Administrator General.

Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII. unless required to protect the assets.

Costs of unnecessary application.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

Administrator General not precluded from applying for letters of administration in any case within one month after death of deceased.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked, or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will or of any other fact which would render any such letters of administration void, shall affect the Administrator General

After revocation, letters of administration granted to Administrator General to be deemed as to him to have been voidable only.

Exception.

Proviso.

General or any person acting under his authority in pursuance of such letters of administration, unless, within the period of one month from the time of giving such notice, proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

What payments made or acts done by Administrator General prior to revocation of Administration upon production of a will, shall be deemed valid.

XX. If any letters of administration which shall be granted under this Act, shall be revoked upon the production and proof of a will, all payments made or acts done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid, notwithstanding such revocation.

In what cases Court may recall Administrator General's administration and grant probate, &c., to executor or next of kin.

XXI. If an executor or next of kin of the deceased, who shall not have been personally served with a citation, or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may be granted to such executor, or letters of administration granted to such other person as aforesaid. Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

Unless a will is proved, application to revoke such administration must be made within one year and without needless delay.

Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the Administrator General out of the assets.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator

trator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

XXIII. Any payment or delivery of assets to any legatee, or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

After one year from grant of administration, distribution of assets by Administrator General to be allowed against all claims of which he had no notice.

Person receiving payments liable to refund.

What to be notice of debt or claim.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office, shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as administrator of the estate to which such letters of administration shall relate ; and all estates, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto ; and all books, papers and documents kept by such Administrator General by virtue of his office, shall be transferred to, and vested in his successor in office.

Letters of administration to be granted to Administrator General in virtue of his office.

Authority given by such letters.

On death, &c. of Administrator General, estate, &c., to vest in successor.

And office books to be transferred.

XXV. All

XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced, or which shall be commenced against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Administrator General to sue or be sued in his representative capacity by his name of office.

Suit not to abate by death, &c.

Proviso.

XXVI. The Administrator General of each of the said Presidencies under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the Administrator General of Madras under any letters of administration which are vested in him by Section V. of this Act, shall be entitled to receive a commission, at the following rates respectively ; *viz.* :

Commission to be received by Administrators General.

The Administrator General of Bengal at the rate of 3 per cent.. and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent., upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration.

XXVII. The Commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General

What expenses, &c., commission is to cover.

How payable.

General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

Commission retained to be deemed a distribution.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time, order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised Provided that the commission so to be received shall not at any time exceed five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use, a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

Commission of the Administrators General of Madras and Bombay may be reduced and again raised.

Proviso.

XXIX. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

Administrator General to defray expenses of establishment and all other charges not expressly provided for.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges for anything done as executor or administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor, or by way of commission or otherwise.

Commission or agency not to be charged by executor or administrator other than the Administrator General.

Specific bequest in favor of executors not affected.

XXXI. The

XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Administrator General to keep a separate account-book for each estate, to be open to inspection, &c. on payment of fee, &c.

XXXII. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies so far as the same are not inconsistent with this Act, shall

Government may make and alter rules and orders consistent with this Act.

For custody of assets.

For remittance of money.

For guidance of Administrator General.

Proviso as to rules now in force.

shall be of the same force and effect as if the same had been made and published under this Act.

Publication of orders, &c.

XXXIII. Such orders shall be published in the official *Gazettes* of the several Presidencies, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

Administrator General to furnish half-yearly Schedules, &c.

XXXIV. The Administrator General of each of the said Presidencies shall, twice in every year—that is to say, on the first day of March, and on the tenth day of August, or on the first day on which the Supreme Court of Judicature at the Presidency shall be sitting after those days, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct—exhibit and deliver, in open Court, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months, ending severally on the thirty-first day of December and thirtieth day of June next before the day of delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period; and also a true Schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same, during the same period, specifying the amount of such balances, and the persons to whom paid, which Schedules shall be filed of record in such Supreme Court of Judicature, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General; and copies thereof in triplicate shall be delivered by such Administrator General to the Secretary of the said Presidency, and shall be sent by the Governor thereof to the Court of Directors of the East India Company, in order that the said Court of Directors may, if they think fit so to do, order the same to be deposited at the East India House, London, for public inspection, and may cause notices to be published in the *London Gazette* and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as they may think fit.

Schedules to be filed and published.

XXXV. The

XXXV. The Government shall, from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

Government to appoint Auditors.

XXXVI. The auditor or auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which, by this Act, are, or which, by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

Auditors to examine Schedule, and report to Government.

XXXVII. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers and documents, which shall appear to him to be necessary for the purposes of the said reference: and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

Auditors to have power to summon witnesses and to call for books, &c.

Penalty for non-attendance.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed

Costs of preparing Schedule, &c. how to be paid.

buted by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General

Auditors to report specially to Government, if accounts appear not correct.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provisions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Government.

Proceedings upon such report

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obodience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, or other person or persons, defendants, who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of reference, &c. how to be defrayed.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants, or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have

power

power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of the Court to have same effect and to be executed in same manner as decretal orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

In what case Administrator General may grant certificate.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not and whether before or after the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the Provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit, at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.

Administrator General not bound to grant certificate unless satisfied of claimant's title, &c.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

Certificate with receipt annexed to be a sufficient discharge.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same : but nothing in this Act shall preclude

Proviso.

clude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

Administrator General not bound to take out administration on account of effects in respect of which he has granted certificate.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

Fee for Certificate.

XLVII. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

Penalty for false swearing, &c.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for Trading.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Exception.

L. And

Accumulation of interest in the hands of the Administrator General at Bombay to be transferred to the E. I. Company.

L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the thirtieth day of June 1851, there were in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by, or in the charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at that Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows :—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities, and cash balance, and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government ; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any monies or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

In the Madras & Bombay Presidencies, the proceeds of Estates unclaimed for 15 years to be transferred to the E. I. Company.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of Government ; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Proviso.

LII. If

LII. If any claim shall be hereafter made to any part of the securities, monies, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being, respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Mode of proceeding by claimant to recover principal money so transferred.

LIII. Section VI. Regulation XV. of 1806 of the Bengal Code and Section V. Regulation IV. of 1809 of the Madras Code are hereby repealed.

Regulations repealed.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of Administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be delivered over to the person obtaining such letters of Administration, or, in the event of a will being discovered, to the person who may obtain probate of the will.

Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to Administrator General.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort

Construction of Act.

Fort William in Bengal or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively ; the words "letters of administration" shall include any letters of administration, whether general or limited or with a will annexed, and letters *ad colligenda bona*. Words in the masculine gender shall include the feminine ; and words in the singular number shall include the plural, and *vice versâ* ; unless where such construction would be inconsistent with or repugnant to the context.

Repeal of Acts.

LVI. Acts VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

Act not to apply to administration of estates of soldiers or sailors.

LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary, or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy ; nor is anything in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India Company, or of any Articles of War, or of any Act of Parliament relating to the Indian Navy.

Commencement of Act.

LVIII. This Act shall commence and take effect from the 1st day of March 1855.

GAL SECRETARIAT LIBRARY

ACT No IX. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 21st March 1855.)

AN ACT *for the amendment of Procedure in cases of regular appeal to the Sudder Court in the Presidency of Fort St. George.*

Preamble.

WHEREAS it is desirable to simplify and shorten the procedure in regular appeals to the Court of Sudder Udalut in the Presidency of Fort St. George; It is enacted as follows:—

Petition of regular appeal, when and to what Court to be presented, and what to contain.

I. *Clause 1st.* In modification of Clause fifth, Section X. Regulation V. of 1802, every petition of regular appeal in a case appealable to the Sudder Court, shall be presented to the Court in which the decision was passed within six weeks from the day of the decision. Such petitions of appeal shall, except in cases of petitions under Section XII. of this Act, contain only notice that the party, being dissatisfied with the decision, is desirous of appealing from it.

Time for presenting petition of appeal may be extended. To what Court, and how application to be made.

Clause 2nd. The Sudder Court may extend the time for presenting such petition of appeal to the lower Court, upon being satisfied that there is sufficient cause for such extension of time. The application for such extension of time may be made directly to the Sudder Court, or through the intervention of the lower Court, at the option of the applicant.

Notice to be given to respondent — and proclamation to issue.

II. On presentation of a petition of regular appeal to the Court in which the decision was passed, notice thereof to the respondent, as well as a proclamation to the same effect, shall immediately issue from that Court, and a copy of the proclamation shall be forthwith fixed up in some conspicuous part of the Court House of the said Court. If the notice cannot be personally served, the proclamation

Service of notice &c.

tion shall at once be fixed upon the door of the respondent's dwelling-house, or in some conspicuous place in the village or place where he usually resides; or in cases in which the respondent shall not have a fixed residence within the jurisdiction of the Company's Courts, the proclamation may be fixed upon the door of his house of business or cutcherry, or the notice may be served on his known local agent. In case the proclamation cannot be fixed, or the notice served in the manner above-mentioned, the proclamation shall be fixed up in such other place, if any, as the said last-mentioned Court shall direct. The Nazir shall make a return to the Court stating when and where the notice and proclamation have been served or fixed up. The return of the Nazir shall be filed in Court, and shall form part of the record of the case, and such return shall be published by fixing up the same in some conspicuous part of the Court House of the lower Court.

III. *Clause 1st.* The rule in Section XI. Regulation V. of 1802, which directs copies of all original papers transmitted to the Sudder Court with the record of an appealed case to be made out and deposited in the lower Court, in lieu of the originals, is hereby modified, and it shall be necessary to copy, authenticate, and deposit only the exhibits in the case, and also any other papers of importance, including the pleadings, or any parts of them, which either of the parties shall require to be copied, authenticated and deposited in the lower Court, previously to their being transmitted to the Sudder Court.

Of what original papers copies are to be deposited.

Clause 2nd. If either of the parties require any papers to be copied, authenticated and deposited, such party shall, either by himself, or his pleader or authorized agent, give notice in writing thereof to the lower Court, before the expiration of fourteen days from the time of the publication of the return of the Nazir, as aforesaid; such notice shall specify the papers which the party requires to be copied, authenticated and deposited.

Party requiring any papers to be copied to give notice thereof.

Clause 3rd. Either party may, by himself, or his pleader or authorized agent, before the presentation of an appeal, give notice in writing to the lower Court specifying any papers or documents which he requires to be copied, authenticated and deposited, in the event of an appeal being preferred.

Party may give notice of papers to be copied in anticipation of appeal.

IV. The

IV. The petition of appeal together with the record of the lower Court shall be certified to the Sudder Court as soon as conveniently may be after the presentation of the petition of appeal, provided that the same shall not be certified within the time allowed to the parties for specifying the papers which they desire to be copied, authenticated and deposited.

Petition and record when to be certified to the Sudder Court.

Proviso.

V. On arrival of the appeal record at the Sudder Court, notice shall be affixed in the Court House of the said Court, requiring the appellant to file, within six weeks from the date thereof, his grounds of objection to the decision of the Court below. Within the said space of six weeks, the appellant shall file in the said Sudder Court his grounds of objection to the decision.

Notice to appellant to file objections.

VI. *Clause 1st.* On the filing of the grounds of objection by the appellant, notice shall be affixed in the Court House of the Sudder Court, requiring the respondent to file his grounds of objection, if any, to the appeal, or to the decision of the lower Court, within four weeks from the date of such notice.

Notice to respondent to file objections.

Clause 2nd. Within the said space of four weeks, the respondent shall file any grounds of objection which he has to the appeal, or which relate to such parts of the decision as are involved in the appeal.

When respondent to file objections.

Clause 3rd. If the respondent shall desire to object to any part of the decision of the lower Court not involved in the appeal, he may present a separate petition of appeal to the Sudder Court, within the said space of four weeks, or within such further time as the said Sudder Court shall allow for that purpose.

In what case respondent may file a separate petition of appeal.

Clause 4th. The respondent shall, in such case, file with his petition of appeal, his grounds of objection to that part of the decision to which his appeal relates; otherwise his appeal shall not be received.

Grounds of objection to be filed therewith.

VII. *Clause 1st.* At the expiration of the time allowed to the respondent for filing his grounds of objection, and for filing a separate petition of appeal in the Sudder Court, the record shall be deemed complete, and the case ready to be called

Record when to be deemed complete.

called up for decision on any day which the Sudder Court may notify, unless the respondent, within such time, file a separate petition of appeal in the Sudder Court.

Notice of separate petition of appeal to be given.

Clause 2nd. If the respondent file a separate petition of appeal in the Sudder Court, notice shall be fixed up in the Court House of the Sudder Court, to the effect that the respondent has filed such separate appeal; and the notice shall require the appellant to file any grounds of objection which he may have thereto, within the space of four weeks from the date of the notice.

When appellant to file objections.

Clause 3rd. Within such space of four weeks the appellant may file any grounds of objection which he has to such appeal, or which relate to that part of the decision which is involved in the respondent's appeal. At the expiration of the time allowed for filing such grounds of objection by the appellant, the record shall be deemed complete, and the case ready to be called up for decision on any day which the Sudder Court shall notify for that purpose.

Record when to be deemed complete.

Hearing of appeals.

Clause 4th. If the appeal of either party be dismissed, or withdrawn, the appeal of the other may be heard alone; otherwise the two appeals, and the proceedings thereon, shall form one record, unless the Sudder Court shall otherwise order.

In what case respondent not to present a separate petition of appeal.

VIII. The respondent shall not be allowed to present a separate petition of appeal in the Sudder Court, if he shall previously have presented a petition of appeal to the lower Court.

Objections to be distinctly stated, and to be numbered.

Also to be written on stamped paper.—Exception.

IX. *Clause 1st.* All grounds of objection, which shall be filed by either the appellant or the respondent, shall be stated distinctly and concisely, without any argument or narrative of facts, and shall be numbered consecutively, and, except in the cases hereinafter mentioned, shall be on paper bearing the stamp duty prescribed by Section XIX. Regulation XIII. of 1816.

Clause 2nd. The

Clause 2nd. The Sudder Court may extend the time for filing grounds of objection, either by an appellant or respondent, upon special application for that purpose, and upon sufficient reasons being shown, to the satisfaction of the said Court, for such extension of time. In such case, the objections may be filed within such extended time.

Sudder Court may extend the time for filing objections.

X. Either party may, by leave of the Sudder Court, or any Judge thereof, at any time before the hearing, amend his grounds of objection, or add grounds of objection to those filed, upon such terms and conditions, and within such time as the said Court or Judge may order. The said Court may also, upon the hearing of any appeal, allow either party to amend his grounds of objection, or to add further grounds, or to urge, and be heard by himself or his pleader, in support of any objection not included in his grounds of objection, upon such terms and conditions as to postponement of the cause, and as to the payment of costs or otherwise, as the Court shall think just, to prevent the opposite party or his pleader from being taken by surprise, or otherwise. Without such leave of the Court, neither party shall be allowed to urge or to be heard in support of any objection not included in his grounds of objection filed. But the Court shall not be confined to such grounds of objection in deciding the cause.

By leave of the Sudder Court, grounds of objection may be amended or added. The parties, but not the Court, to be confined to the objections filed.

XI. *Clause 1st.* The Sudder Court may call up for hearing and decision on any day the Court shall notify, and without regard to the place in which the case stands in the general list of appeals, any grounds of objection filed by the respondent, or the appellant, to the appeal of the opposite party; and the Sudder Court may hear and decide upon such grounds of objection, before calling the case up for decision upon the grounds of objection to the decision of the lower Court.

Sudder Court may fix a day to hear and determine objections to the appeal before hearing the appeal.

Clause 2nd. If the grounds of objection filed by the appellant and respondent shall be upon points of law only, and shall not raise any question of fact, the Sudder Court may order the case to be called up for hearing and decision on any day which the said Court shall notify, without regard to the place in which it stands in the general list of appeals pending in the said Court.

Appeal involving objections of law only may be heard and decided at any fixed time without regard to its place in the list of appeals.

Clause 3rd. If

Clause 3rd. If the grounds of objection filed shall raise questions of law and fact, and it shall appear to the Sudder Court that the decision of the law may render it unnecessary to determine any question of fact so raised, the Court may order the case to be called up for decision upon the law alone in the first instance, in the manner pointed out in the last preceding Section; and if the decision of the case upon the law shall render it unnecessary to determine any question of fact, the said Court shall pass a final decision in the case; otherwise the Court shall determine the law only, and the case shall be afterwards set down in the list of regular appeals for hearing upon the question or questions of fact, and shall be determined in the same manner as any other regular appeal.

Appeal involving objections of law and fact how to be heard.

XII. If any party to a regular suit be desirous of being admitted to appeal *in formâ pauperis* to the Sudder Court, the following procedure shall be adopted :—

Appeal *in formâ pauperis*.

Clause 1st. The appellant shall present his petition to the lower Court according to the rules prescribed by Section I. of this Act, provided that a petition to appeal *in formâ pauperis* against any decision passed before this Act shall come into operation may be presented within three months from the day of the decision.

Petition when to be presented.

Proviso.

Clause 2nd. Petitions of appeal by parties desirous to appeal *in formâ pauperis* shall contain a statement to that effect, and also a Schedule of the whole real and personal property belonging to the petitioner, and the estimated value of such property, and shall be written on paper bearing the stamp duty of two rupees per sheet.

Form of petition.

Clause 3rd. Upon the presentation of such petition, the notice to the respondent and the proclamation shall state that the appellant desires to appeal *in formâ pauperis*.

Notice thereof and proclamation.

Clause 4th. On arrival of the appeal record at the Sudder Court, the same procedure shall be adopted in that Court as in other cases of regular appeal, except that, after the filing of the grounds of objection by the appellant, and before notice shall be given requiring the respondent to file his grounds of objection, the Sudder Court shall determine, according

Procedure on such appeal.

When Sudder Court is to determine whether appeal shall be *in formâ pauperis*.

to

to the rules now applicable to the determination of such cases, whether or not the appellant shall be allowed to appeal *in formâ pauperis*.

Clause 5th. If the Sudder Court allow the petitioner to appeal *in formâ pauperis*, notice shall be given to the respondent to file his grounds of objection in the manner provided by Section VI. of this Act, and the same procedure shall be adopted subsequently thereto as in other cases of regular appeal under this Act. The rules and conditions now applicable to persons admitted by the Sudder Court to appeal *in formâ pauperis* shall continue in force, except where the same are inconsistent with any of the provisions of this Act.

Notice to respondent to file objections to pauper appeals.

Rules of Sudder as to pauper appeals to continue in force, except where inconsistent with this Act.

Clause 6th. If the Sudder Court refuse to allow the petitioner to appeal *in formâ pauperis*, the said Court may make an order to the effect that the appellant, upon filing a petition of appeal in that Court upon paper bearing the stamp duty prescribed by Section XIII., and Clause 2 Section XXIII., Regulation XIII. of 1816, and upon re-filing his grounds of objection on paper bearing the stamp duty prescribed by Section XIX. and Clause 2, Section XXIII. of the same Regulation, may proceed with the appeal according to the rules prescribed by this Act in the case of persons not appealing as paupers.

What order may be made upon refusal to allow appeal *in formâ pauperis*.

Clause 7th. Upon such order being made, the appellant shall file his petition, and re-file his objections upon paper stamped with the stamp duty required by Clause 6th of this Section, within two weeks from the date of such order, or within such further time as the said Court may allow for that purpose; otherwise the appeal shall stand dismissed.

Appellant how to proceed upon such order.

Clause 8th. Upon the re-filing of the grounds of objection according to the provisions of the last preceding Clause, notice of the order and of the re-filing of such objections shall be given to the respondent in the manner prescribed by Section VI. of this Act, and the respondent shall be required to file his grounds of objection, if any, according to the provisions of that Section. The procedure subsequent to such notice shall be according to the general provisions of this Act.

Notice of order to be given to respondent. Subsequent procedure thereon.

Clause 9th. If

In pauper appeals, appellant's objections may be on unstamped paper.

Clause 9th. If an appellant shall petition to appeal *in formâ pauperis*, his grounds of objection may be written on plain paper.

All subsequent objections may be on unstamped paper.

XIII. If an appellant shall be admitted to appeal, or a respondent to defend *in formâ pauperis*, all grounds of objection subsequently filed by either party may be written on plain paper.

Act not to be retrospective.

XIV. The provisions of this Act shall not apply to regular appeals preferred before the 1st day of May 1855.

ACT No. X. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 21st March 1855.)

AN ACT *to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, ~~and to amend the provisions of Section XL. Act XIX. of 1853~~.*

Preamble.

WHEREAS it is expedient to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853; It is enacted as follows:—

Repeal of former Regulations &c.

I. Section XXII. Regulation VII. of 1809 and Section VIII. Regulation XII. of 1809 of the Madras Code, and Section XL. Act XIX. of 1853, are hereby repealed.

Special application to compel attendance of party to a suit as a witness.

II. If any party to a suit shall require the attendance of any other party thereto as a witness to be enforced, he shall, by himself or his pleader, make a special application to the Court for an order for a summons to compel the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application; otherwise a summons shall not be issued. In cases in which, according to the practice of the Court, a day is fixed for the trial, the application shall be made before such day shall be fixed.

Court may require notice to be given to a party to show cause why he should not attend.

III. The Court, upon the application of the pleader of any party to a suit whose attendance as witness is required, or without such application, if the Court think fit so to do, may, before making such order, cause notice to be given to the party or his pleader fixing a day for such party to show cause

cause why he should not attend and give evidence, and may also, from time to time, if necessary, for good and sufficient cause, enlarge the time for such purpose.

IV. *Clause* 1. In support of the cause shown, the Court shall receive a declaration in writing of the party, if signed by him, and delivered into the Court by himself or his pleader.

Written declaration of party receivable.

Clause 2. If the party making such declaration shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against and upon conviction punished accordingly.

Penalty for false statement.

V. The Court need not compel the attendance of any party to a suit for the purpose of giving evidence therein, if such party shall satisfy the Court that he has no personal knowledge of any material subject of enquiry in the suit, and that he cannot give material evidence therein.

Court not to compel attendance of party to a suit to give evidence, if satisfied that he has no personal knowledge and that he cannot give material evidence.

VI. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall cause a summons to be issued for compelling the party to attend and give evidence.

Summons to issue if no sufficient cause shown.

VII. No party to a suit, appeal, or proceeding, who shall offer himself as a witness therein, shall, without the consent of all parties thereto, be examined otherwise than in open Court, in such manner as the Court may direct, having regard to the usages and customs of the country, unless such examination shall be taken under, and subject to the Rules prescribed by Section XII. or XIV. of this Act.

Mode of examining party to a suit who offers himself as a witness.

Proviso.

VIII. If any witness, being a party to a suit, to whom any summons to give evidence or produce a document shall have been personally delivered, shall, without lawful excuse, fail to comply with such summons, or attending, or being present in Court, shall, without lawful excuse, refuse to give evidence, or to subscribe

Penalty for non-compliance with summons.

scribe his deposition, or to produce any document in his custody or possession, the Court, instead of proceeding in the manner provided by the laws in force in the Presidency in respect of defaulting witnesses, may, if the witness be a plaintiff, appellant, or petitioner, dismiss the complaint, appeal or petition, with costs against such party, or if such party be a defendant or respondent, may hear and decide the case against such defendant or respondent *ex parte*. If any such complaint, appeal or petition shall be dismissed for such cause, the complainant or petitioner shall be debarred from preferring any other petition, appeal or complaint in respect of the same matter.

In what case a witness, not being a party to the suit in which he is summoned, is bound to produce his title-deeds.

IX. A witness not a party to the suit or proceeding in which he is summoned shall not be bound to produce his own title-deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

Person not obeying summons, &c. liable for damages in a civil action.

X. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid, to be recovered in a civil action.

Postponing case on account of non-attendance of witness &c.

XI. It shall not be necessary to postpone the hearing or decision of a case for the non-production of a document, or for the evidence of a witness who may neglect or refuse to attend, or who shall abscond or keep out of the way, or who cannot be served with a summons, beyond such period as shall appear proper to the

the Court, having regard to all the circumstances of the case: provided that, when a summons shall have been issued for the attendance of a plaintiff or appellant in a suit to give evidence or produce a document, the Court shall, at the request of the defendant or respondent, unless there be good reason to the contrary, postpone the hearing or decision until the plaintiff or appellant can be personally summoned, or shall attend and give evidence or produce the document required; and that, where a summons shall have been issued for the attendance of a defendant or respondent to give evidence or produce a document, the hearing or decision shall, upon the application of the plaintiff or appellant, be postponed in like manner, unless there be good reason to the contrary, until the defendant or respondent can be personally summoned, or shall attend and give evidence, or produce the document required.

Proviso.

XII. In every regular or summary suit, appeal or proceeding in any of the Civil Courts of the East India Company, and also in every summary suit or other proceeding of a Civil nature before any Court, Officer, or other person having by law or consent of parties authority to examine witnesses, the evidence of the attending witnesses shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. The evidence of each witness given upon such examination shall be taken down in writing, by or in the presence and under the superintendence of the Judge, not ordinarily by question and answer, but in the form of a narrative, and when completed shall be read over to the witness, and signed by him in the presence of the Judge and of the parties to the suit or their vakeels, or such of them as may think fit to attend. In case the witness shall refuse to sign the deposition, the Judge shall sign the same, and record the reason, if any, given by the witness for such refusal, together with such remarks thereon as the Judge shall think fit to make. It shall be in the discretion of the Judge to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for doing so, or any party or his vakeel shall require it. If any question put to a witness be objected to by either of the parties or their vakeels, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together

Oral evidence how to be taken.

together with the decision of the Court upon the objection. The Judge shall also record such remarks as he may think material respecting the demeanor of any witness whilst under examination. Provided that it shall not be necessary to take in writing the evidence of witnesses in cases tried by District Moonsiffs in the said Presidency of Fort St. George when the claim shall not exceed 20 rupees, or in cases tried by Village Moonsiffs in the same Presidency.

Proviso.

XIII. In cases where the evidence is needed of females, who, according to the custom of the country, ought not to be compelled to appear as witnesses in a Court of Justice, and in which the Court shall be of opinion that the ends of justice require and justify it, such Court may issue a commission to any Officer of the Court or other person, to be named in such commission, for the examination of such females in the hearing of the parties to the suit or their vakeels, in such manner as the Court may direct, having regard to the custom and usage of the country, and with liberty to the parties or their vakeels to cross-examine, anything in Section V. Act VII. of 1841 to the contrary notwithstanding.

Evidence of Purdah Nusheen women.

XIV. Any party to a suit, appeal or proceeding, who may be examined as a witness therein, shall be examined according to the rules for the time being in force as to the examination of witnesses not being parties to the suit, and shall be punishable for any false evidence given by him, in the same manner as if he were not a party.

By what rules a party to a suit is to be examined, and how punishable for false evidence.

XV. The words "witness" and "witnesses" in Act VII. of 1841 shall respectively include any party or parties to a suit, and the said Act shall be read as if the words "or party" "or parties" had been used in such Act in conjunction with the words "witness" or "witnesses" respectively. Provided that the deposition of a party taken under the provisions of this Section, at the instance of any opposite party, may be read in evidence by, or on behalf of such last-mentioned party, without the proof required by Section V. of the said Act. Provided also that no deposition of any

Interpretation of word "witness," in Act VII. of 1841.

Proviso.

any party taken under the provisions of this Section shall be read or used in evidence unless taken and read at the instance of some opposite party, or unless it shall be proved that the deponent is unable, from sickness or infirmity, to attend to be personally examined, or is, without collusion or any reference to the suit, at so great a distance from the Court, that, in the judgment of the Court, it would be unreasonable to require his personal attendance in Court for the purpose of giving such evidence, in which last-mentioned case it shall be discretionary with the Court, having regard to the nature of the case and of the evidence given, either to allow or to refuse such deposition to be read.

No appeal from Judge's order as to summons &c.

XVI. No appeal shall lie from any order or decision of a Judge with respect to summoning or examining any party to a suit, or as to allowing a deposition to be read under the Section next preceding.

Document referred to in pleading to be filed.

XVII. If any party to a suit in any Civil Court of the East India Company in either of the said Presidencies or in the Presidency of Fort William in Bengal shall, in any plaint, answer or other pleading, refer to any document in his possession or power, not being a shop book or book of account, as a material proof or document in support of his claim or defence, he shall file such document with such plaint, answer or other pleading, and no such plaint, answer or other pleading shall be received without such document, unless, upon good and sufficient cause shown, the Court shall excuse its non-production or enlarge the time for producing it; and any adverse party shall be entitled, by himself or his vakeel, to inspect and take a copy of the document.

Interpretation Clause.

XVIII. In the construction of this Act, unless where it is otherwise expressly provided, or there is something in the subject or context repugnant to such construction, or which would render such construction inapplicable to the case, the word "Court" shall mean any Civil Court of the East India Company, and the word "Judge" shall include any officer or person having, by law or consent of parties, authority to examine witnesses and to act judicially; the word "suit" shall be deemed to mean and include any suit, appeal or proceeding; the

the word "witness" shall include all persons competent and liable to give evidence, whether parties to any suit or proceeding, or not. Words importing the masculine gender or singular number shall include the feminine gender or plural number, and *vice versâ*.

XIX. This Act shall come into operation on the 1st day of May 1855.

Act when to operate.

Act No. XI. of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 27th March 1855.)

An Act *relating to mesne profits and to improvements made by holders under defective titles in cases to which the English Law is applicable.*

Preamble.

Whereas it is expedient, in cases to which the English Law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

No person to be chargeable with rent *bonâ fide* paid to a holder under defective title.

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bonâ fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

Value of improvements made by *bonâ fide* holders under defective titles secured to them.

II. If any person shall erect any building or make an improvement upon any lands held by him *bonâ fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs or assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement. Provided that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

Value how to be estimated.

Act to apply only to cases governed by English Law.

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

ACT No. XII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 27th March 1855.)

AN ACT *to enable Executors, Administrators or Representatives to sue and be sued for certain wrongs.*

Preamble.

WHEREAS it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives; It is enacted as follows:—

Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person: and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong: and the damages to be recovered in such action shall, if recovered against an Executor or Administrator bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

Death of either party not to abate suit.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided that,

that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

Proviso.

ACT No. XIII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 27th March 1855.*)*

AN ACT *to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.*

Preamble.

WHEREAS no action or suit is now maintainable in any Court against a person who, by his wrongful act, neglect, or default, may have caused the death of another person, and it is often-times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him ; It is enacted as follows :—

Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased ; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the costs not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

II. Provided

II. Provided always that not more than one action or suit shall be brought for, and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person; provided that, in any such action or suit, the Executor, Administrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

Not more than one action to be brought: to be commenced within 12 months.

Claim for loss to the Estate may be added.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff shall deliver particulars, &c.

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender; and the word "person" shall apply to bodies politic and corporate; and the word "parent" shall include father and mother, and grand-father and grand-mother; and the word "child" shall include son and daughter, and grand-son and grand-daughter, and step-son and step-daughter.

Construction of Act.

Act No. XIV. of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 27th March 1855.*)*

An Act *for the better regulation of Military Bazars in the Presidency of Fort Saint George.*

Preamble.

Whereas it is desirable to extend the provisions of Act XII. of 1842 to persons suing for the recovery of debts before Superintendents of Police, under the provisions of Regulation VII. of 1832 of the Madras Code; It is enacted as follows:—

Debt &c. not recoverable under Clause 3 of Section XXI. of Regulation VII. 1832 of Madras Code, unless person suing have been registered as a Military Bazar-man.

I. No person residing within the limits of any Military Cantonment, or carrying on any trade or business therein, shall be allowed to recover in the Court of the Officer in charge of the Police, under the provisions of Clause 3 Section XXI. of Regulation VII. of 1832 of the Madras Code, any debt contracted in the way of trade, or for the loan of money, within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a Military Bazar-man within any such Cantonment.

Act No. XV. of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 27th March 1855.)

An Act *to amend Regulation III. of* 1833 *of the Bombay Regulations.*

Preamble.

Whereas the restriction of the appointment of Joint Police Officers, under Regulation III. of 1833 of the Bombay Code, to certain Towns has been found to be inconvenient; It is enacted as follows:—

Government may appoint Joint Police Officers to districts, &c.

I. It shall be competent to the Governor in Council of Bombay to appoint a Joint Police Officer or Officers to any district of that Presidency, under the provisions of Regulation III. of 1833; and every Joint Police Officer so appointed shall be subject to all the provisions of Regulation III. of 1833, in the same manner as if the words "or districts" had been used in conjunction with the word "Towns" throughout that Regulation.

And exempt them from the provisions of Sections II. and III. Regulation III. of 1833.

II. It shall be lawful for the Governor in Council to exempt any Joint Police Officer from the provisions of Sections II. and III. of the said Regulation.

Act No. XVI. of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 27th March 1855.)

An Act *to amend the Law in force in the Presidency of Bombay concerning the use of Badges.*

Preamble

Whereas it is expedient to amend the provision of the Bombay Code which prohibits the use of badges by persons not in the employ of Government; It is enacted as follows:—

Regulation repealed.

1. Section VI. Chapter 3 Regulation XXIII. of 1827 of the Bombay Code is repealed.

Badges worn by persons not servants of Government to bear the employer's name, &c.

II. No person, not being a servant of Government, shall wear any belt or badge intended to resemble any belt or badge worn by servants of Government, or any badge not bearing, in the characters of a language current in the district in which it is worn, the name or designation of the party by whom the wearer is employed.

Penalty.

III. Whoever commits, or is accessary to the commission of, an offence under the preceding Section shall, whether a British subject or not, be liable, on conviction before any person lawfully exercising the powers of a Magistrate or Justice of the Peace, within whose local jurisdiction the offence is committed, to a fine not exceeding one hundred rupees.

ACT No. XVII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 29th May 1855.)

An Act to improve the law relating to the Copper Currency in the Straits.

Preamble.

WHEREAS the Company's Rupee is by Act XVII. of 1835 a legal tender in satisfaction of all engagements in the Settlement of Prince of Wales' Island, Singapore, and Malacca, but no copper coin, except the half pice issued under Act XI. of 1854, is now by law legal tender for fractions of a Rupee in that Settlement; and it is expedient to remedy this defect in the law; and whereas besides the Rupee the Dollar is by custom current in the said Settlement; and it is therefore expedient to provide that the copper currency which will be legal tender in the said Settlement for fractions of a Rupee shall also be legal tender in the said Settlement for fractions of a Dollar; It is enacted as follows:—

Acts repealed.

I. Sections I. II. and V. of Act VI. of 1847 are hereby repealed, in so far as they relate to copper pice, double pice, and pies coined in accordance with Act XXII. of 1844, or Act XXI. of 1835: but in so far as they relate to all other copper coins, the said Sections shall remain in full force. And the provisions of Sections I. II. and IV. of Act XXII. of 1844, so far as they are now in force, are hereby extended to the Settlement of Prince of Wales' Island, Singapore, and Malacca, where they shall have effect, any thing in Act VI. of 1847 to the contrary notwithstanding.

Pice legal tender for Dollars.

II. From and after the first day of July 1855, within the said Settlement, a pice coined according to Act XXII. of 1844 shall be legal tender for one one hundred and fortieth part of a Dollar, and a double pice so coined shall be legal tender for one-seventieth part of a Dollar; and a pie so coined shall be legal tender for one four hundred

hundred and twentieth part of a Dollar; also a half-pice coined according to Act XI. of 1854 shall be legal tender for one two hundred and eightieth part of a Dollar.

III. Provided always, and it is hereby enacted, that no copper coins within the said Settlement shall be legal tender except for fractions of a Rupee, or fractions of a Dollar.

Proviso.

ACT No. XVIII. OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 6th June 1855.*)*

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of Punishments in India.

Preamble.

WHEREAS doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed; It is declared and enacted as follows: (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled "An Act to provide for the Government of India.")

Executive Government of a Presidency declared to have power to grant pardons for offences committed therein.

I. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the Territories in the possession and under the Government of the East India Company have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or Officer exercising jurisdiction within the said Territories.

Or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.

Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant-Governors, &c.

II. Nothing in this Act shall be construed to interfere with the provisions contained in the Statutes of the Imperial Parliament 16 and 17 Vic. Cap. 95 and 17 and 18 Vic. Cap. 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named; and in every such case the aforesaid power of granting pardons and reprieves and remissions of punishment in case, and so far as the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

The power of granting pardons, &c., may be exercised by the Governor General in Council, so far as it is excepted from the authority of Lieutenant-Governors, &c.

Act not to interfere with the prerogative of the Crown to grant pardons.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above-mentioned.

ACT No. XIX of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th July 1855.*)*

AN ACT *to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.*

Preamble.

WHEREAS it is expedient, for the better administration of justice, to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George, It is enacted as follows :—

Certain parts of Regulation VI of 1816 of the Madras Code repealed.

I. Clause 3rd Section VII ; Clause 1st Section XII ; and so much of Clause 2nd of the same Section as prohibits District Moonsiffs from trying suits in which persons employed in their Cutcherries may be parties ; Section XXIX ; and Section XL Regulation VI of 1816 of the Madras Code—are repealed.

Clause 1st Section XI of the same Regulation modified.

II. Clause 1st Section XI of the said Regulation is modified as follows :—Any suit cognizable by a District Moonsiff's Court may be heard and determined by any such Court to which it may be preferred, when the cause of action shall have arisen, or the Defendant, at the time of the commencement of the suit, shall reside, as a fixed inhabitant, within the local limits of the jurisdiction of the Court ; provided that, if an action be brought against several Defendants, of whom one shall be resident, as a fixed inhabitant, within the local limits of the jurisdiction of the Court, within the jurisdiction of which the cause of action shall have arisen, the action shall be brought in that Court.

III. Section

PRICE 9 PIE.

III. Section XXII of the said Regulation is modified as follows :— District Moonsiffs are empowered, when they think fit, to require security from Defendants, in preference to attaching their property under the circumstances described in the aforesaid Section, and to release property attached, on sufficient security being tendered by Defendants.

Power of District Moonsiffs to require security from Defendants, &c.

IV. All powers which may be lawfully exercised by subordinate Zillah Courts for enforcing the attendance of witnesses summoned to appear in such Courts, may be exercised by District Moonsiffs for enforcing the attendance of witnesses summoned to appear in their Courts.

Powers of subordinate Zillah Courts for enforcing the attendance of witnesses may be exercised by District Moonsiffs.

V. On a complaint made to a District Moonsiff, on oath or solemn affirmation, that any person within his jurisdiction has resisted any process of his Court, the District Moonsiff may summon such person to answer to the charge, and if the offence be proved to his satisfaction, may adjudge the offender to pay a fine not exceeding Fifty Rupees, commutable to imprisonment for a term not exceeding one month in the Civil Jail, or in any place appointed by the Executive Government for the confinement of prisoners in civil cases.

Penalty for resisting process.

VI. Clauses 2nd, 3rd, and 4th Section X Regulation XV of 1816 of the said Code, shall be applicable to the Courts of District Moonsiffs.

Clauses 2, 3, and 4 Section X Regulation XV of 1816 of the Madras Code extended to District Moonsiffs' Courts.

VII. Clause 2 Section VI Regulation XV of 1816 of the said Code, relating to reviews of judgment, shall be applicable to the Courts of District Moonsiffs, except that the petition for a review need not be written upon stamped paper. Provided that, if a District Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge of the Zillah, who may permit such review, under the same rules as are prescribed in regard to similar applications to the Court of Sudder Adawlut.

Also part of Clause 2 Section VI of the above Regulation.

Proviso.

VIII. All

All orders of District Moonsiffs under this Act open to appeal.

VIII. All orders which may be passed by a District Moonsiff under this Act, are open to appeal to the Zillah Judge, if preferred within the time fixed for regular appeals.

BENGAL SECRETARIAT LIBRARY

ACT No. XX OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 24th July 1855,)

AN ACT *for the establishment and maintenance of Boundary-marks in the Presidency of Fort St. George.*

Preamble.

WHEREAS it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of land assessed to, or exempted from the public revenue in the Presidency of Fort St. George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, It is enacted as follows :—

Collectors, &c. to fix boundaries of fields, &c. and to require owners or occupants to form and maintain boundary-marks.

I. It shall be lawful within the said Presidency for a Collector of Land Revenue, or person exercising the powers of Collector, or any Revenue Officer appointed by the Government for the purpose, to fix the boundaries of fields, holdings, estates, or villages, and to require that marks be formed and maintained by the owners or occupants on the boundaries, of such materials, and in such number and manner as may appear to such Officer sufficient for distinguishing the limits of such fields, holdings, estates, or villages, whenever he may be of opinion that such demarcation is necessary for the prevention or adjustment of disputes.

Notices for the purpose when and how to be served.

II. Notices shall be served on the persons owning or occupying the conterminous fields, holdings, estates, or villages, requiring them to form or repair such boundary-marks within ten days from the date of the notice, and in the event of

of these persons not being found in their village, the said requisition shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

In default of compliance Officer may order erection or repair of necessary marks at the expense of the owners or occupants.

III. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of such boundary-marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, and shall be levied in the same manner as arrears of land revenue.

In the case of unoccupied fields, cost to be charged to Government.

IV. In the case of unoccupied fields, the cost shall be charged to Government.

Penalty for erasing, &c. marks—a moiety of which to be awarded to informer.

V. Any person convicted before a Magistrate of wilfully, and without lawful excuse, erasing, removing, or injuring such boundary-marks, or any survey-marks set up by an Officer of Government, shall be liable to a fine not exceeding Fifty Rupees for each mark so erased, removed, or injured, one-half of which fine may be awarded to the informer, and the other half shall be chargeable with the cost of restoring the mark. Whenever it may not be possible to detect the person who erased, removed, or injured such boundary or survey-marks, the Collector or other Revenue Officer aforesaid may give directions for the restoration or repair of such marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands, or apportioned among the ryots of the village in proportion to their pottahs, as he may consider just and equitable, and to be levied in the same manner as arrears of land revenue.

Costs how to be recovered when offender is not known or unable to pay the fine.

VI. Any

VI. Any person objecting to a boundary proposed to be fixed under Section I, may prefer a complaint to the Collector or other Revenue Officer, who shall dispose of the same in the manner prescribed by Regulation XII of 1816.

Party objecting may complain to Collector, &c.

VII. Any occupant or owner of land refusing or failing to attend, when summoned by the Collector or other Revenue Officer, at the measurement and demarcation of his field, holding, or estate, or of the village boundary, shall be liable, by order of the Collector or other such Officer, to a fine not exceeding Fifty Rupees, to be levied by the same process as an arrear of land revenue.

Penalty for refusing or neglecting to attend when summoned.

VIII. The proceedings of Officers imposing charges under Sections III and V, or fines under Section VII of this Act, shall be recorded in writing, and shall be subject to appeal to the Revenue authorities to whom they are subordinate.

Proceedings under Sections III, V, and VII to be recorded in writing, and appealable to the superior Revenue authorities.

ACT No. XXI of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 9th August 1855.*)*

AN ACT *for making better provision for the education of Male Minors and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.*

Preamble.

WHEREAS the existing laws are found insufficient to insure the proper education of Male Minors subject to the superintendence of the Court of Wards, and it is expedient to make further and better provision for the education of such persons and their younger brothers, and for the exercise of a control over the marriages of all Minors under the superintendence of the Court of Wards: It is enacted as follows:—

General control and superintendence of the education of Male Minor Wards vested in Collectors of Revenue.

I. The general superintendence and control of the education of every Male Minor, whose property has been, or shall be brought under the management of the Court of Wards, in, and for any part of the Presidency of Fort St. George, by virtue of any Act or Regulation which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or District wherein such Minor's estate is situate; or, if such Minor is possessed of immovable property in different districts, in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

II. It

PRICE 9 PIE.

Collectors to have power to cause Male Minor Wards to be educated at any School or College.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any Minor is vested by this Act, to direct that such Minor shall reside, either with or without his guardian, at the Sudder Station of the district, or at any other place within the said Presidency, and shall attend for the purposes of education, such School or College as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such School or College.

Or in certain cases to cause such Wards to be educated by a private tutor.

III. If it shall appear to the Collector inexpedient to place any such Minor at a School or College, he shall cause such Minor to be educated by a private tutor, properly qualified, either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges and expenses incurred under this Act to be paid out of the profits of the Ward's estate.

IV. All charges and expenses which may be incurred on account of any Male Minor Ward under the provisions of this Act, for College or School fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

Court of Wards to have power to remove guardians for disobedience to orders passed by a Collector under this Act.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person

so removed shall have been first invested with the guardianship of the Minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards.

Continued liability of guardian removed: powers and responsibilities of new guardian.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship, and every guardian, appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of Minors by a Collector of Revenue acting under the Court of Wards.

The right to the custody of the person of a Male Minor to be vested in guardian appointed by the Court of Wards, or, failing him, in the Collector.

VII. The right to the custody of the person of any Male Minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such Minor, or, in the absence of any such person, the Collector of Revenue having the superintendence of the education of such Minor under the provisions of this Act.

The foregoing Sections applicable also to the younger brothers of Wards.

VIII. Whenever a Minor whose property is under the management of the Court of Wards has a younger brother or brothers entitled to maintenance at the charge of the estate, all the powers and provisions hereinbefore contained for promoting the education of such Minor, are hereby declared and made applicable to such younger brother or brothers.

Penalty for abetting marriage of Ward without leave of Collector.

IX. Whoever knowingly aids or abets the marriage of any Minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such Minor, without the leave of the Collector of Revenue acting under the Court of Wards to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the prosecution

of

of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labour.

Appeal from the orders of a Collector to lie to the Court of Wards.

X. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Wards.

Act No. XXII of 1855.

Passed by the Legislative Council of India.

(Received the assent of the Governor General on the 13th August 1855.)

An Act *for the regulation of Ports and Port-dues.*

Preamble.

Whereas it is expedient to provide for the safety of Vessels, and for the convenience of traffic in the several Ports within the Territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay: It is enacted as follows:—

Repeal of part of Act I of 1852.

I. Section XXI of Act I of 1852 and Schedule C appended to that Act, are hereby repealed.

Operation of certain laws to cease in Ports &c., declared subject to this Act.

II. Regulation VII. 1801 of the Bengal Code; so much of Regulation II of 1810 of the Bombay Code as is still in force; Section XII Regulation III. 1833 of the Bengal Code; Act XIII of 1839; Section XXXIX of Act I of 1852; Sections XLII and XLIII of Act XIII of 1852; and Act XI of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting or likely to affect the navigation of

Price 4 annas 3 pie.

of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

To what places this Act applies.

III. The Local Government of any part of the said Territories may, with the sanction of the Governor General of India in Council, declare any Port within that part of the said Territories to be subject to this Act; and any navigable River or Channel leading to that Port to be subject to this Act. When any such Port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain Ports by order of the Local Government, shall have effect in that Port or navigable River or Channel.

Limits of such places how to be fixed.

IV. Every declaration by which any Port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel; and such limits shall extend always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits how to be altered.

V. The Local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River, or Channel.

Appointment of Conservator.

VI. The Local Government shall appoint an Officer to be Conservator of every Port, River, or Channel subject to this Act. In Ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In Ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In Ports where there are both a Master Attendant and a

Harbour

Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely,

Local Government empowered to make Port-rules.

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any Port subject to this Act.

Entering or leaving Port.

2. For regulating the berths and stations to be occupied by vessels in any such port.

Berths of vessels.

3. For striking the yards and top-masts, and for rigging in the jib and driver booms, of vessels in any such Port, whenever it may be proper so to do.

Striking yards, &c.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such Port.

Removal of anchors, &c.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

Taking in or discharging ballast.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same ; and for marking out the spaces so to be kept free.

Keeping free passage.

7. For

Regulating the anchoring.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

Moving and warping.

8. For regulating the moving and warping of all vessels within any such Port and the use of warps therein.

Use of mooring Buoys.

9. For regulating the use of the mooring buoys, chain and other mooring in any such Port, River, or Channel.

Rates for use of mooring buoys.

10. For fixing from time to time, the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

Cargo Boats, &c.

11. For regulating cargo and other boats, and catamarans plying for hire in any such Port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

Fires and lights.

12. For regulating the use of fires and lights within any such Port.

Signal light.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Publication of Orders of a Local Government.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or, where there is no Official Gazette, in such other public manner as that Government may order; and a copy thereof shall be fixed up in some conspicuous place in the Office of the Conservator of every Port to which such order shall relate, and in the Custom House, if any, of every such Port.

IX. If

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Penalty for disobedience to Rules.

X. The Conservator of any Port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such Port.

Conservator empowered to give directions for certain specified purposes.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator, after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction; and in case of such refusal or neglect it shall be lawful for the said Conservator to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose; and all reasonable expenses which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purposes of this Act, be deemed to have been given to the Master thereof.

Penalties for disobedience to orders of Conservator.

Expenses caused thereby to be paid by the person offending.

Service of written notice.

XII. In every Port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board; or to move a vessel of any burthen less than 200 tons and exceeding

Special Rule.

Vessels in certain cases not to be moved without having a Pilot &c., or the permission of the Harbour Master.

100 tons without having on-board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some Officer empowered by such Conservator to give such authority; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper Officer, be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

Exception.

Penalty.

XIII. The Master of any vessel in any Port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel for the purpose of warping any other vessel in the Port, and shall not allow any such warp to be let go, until required so to do; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Master to permit warps to be made fast to his vessel.

Penalty.

XIV. If the Master of any vessel shall cause or suffer any warp or hawser attached to his vessel, to be left out in any such Port, after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said Port, he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Penalty for leaving out hawser, &c., after sun-set.

XV. The Conservator of any such Port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such Port, or at or near to the entrance thereof.

Conservator may, in case of necessity, cut ropes, &c.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such

Penalties for causing obstruction or public nuisance.

such person shall be liable to a penalty not exceeding One Hundred Rupees and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment; and the Conservator or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

Any floating timber, &c., or any obstruction on shore within the limits of the Port, to be removed at the expense of owner.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such Port, which shall impede the free navigation of such Port; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such Port, and is not private property; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Expenses of removal may be recovered as a penalty.

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and the Conservator may cause such timber, raft, or other thing, or the materials of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by Public Auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same,

Timber, &c. may be sold.

Proceeds how to be dealt with.

same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

Obstructions lawfully made, how to be removed.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate, relating to the determination of like disputes in the case of land required for public purposes.

Compensation how to be determined.

Penalty for injuring Buoys, &c.

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Notice to be given to Conservator, if vessel gets foul of Government moorings.

XXI. If any vessel shall hook or get foul of any of the buoys or mooring laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel;

and

and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or, at the discretion of the Magistrate, be imprisoned, with or without hard labour, for a period not exceeding six calendar months.

Penalty for wilfully loosening a vessel from its moorings.

XXIII. If any vessel shall be wrecked, stranded, or sunk, in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be re-paid within one month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX of this Act.

Conservator may raise any wreck, &c. impeding navigation within the Port.

Expense how recoverable.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place on shore, from which the same shall be liable to be washed into any such Port, River, or Channel, either by ordinary or high tides, or by storms or land-floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast

Penalty for improperly discharging ballast, &c.

Proviso.

last or other thing shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government.

Penalty for graving &c., vessel within prohibited limits.

XXV. If any person shall grave, bream, or smoke any vessel in any such Port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five Hundred Rupees for every such offence.

Penalty for boiling pitch, &c., on board a vessel within prohibited limits.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such Port, at any place where such act shall be prohibited by order of the Local Government or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board which such offence shall be committed, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for drawing spirits by candle-light, &c.

XXVII. If any person shall, by candle-light, or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Special Rule.

Vessels above 200 tons to be provided with a force-pump, &c.

XXVIII. In every such Port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances, for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been required by the Conservator to comply with such provision, shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Penalty.

XXIX. The

Vessels not to have powder, &c. exceeding 50 lbs. on board within certain limits to be fixed by Government.

XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight, whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an Officer to recieve the same.

Government to appoint place of deposit for powder.

Government to fix the time and manner of landing and shipping powder, &c.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Master to make declaration.

XXXI. The Master of such vessel shall, upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is not then, to his knowledge or belief, on board such vessel any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

Penalty.

Officer to give receipt and to account for powder deposited.

XXXII. The Officer with whom such gunpowder or other combustible ammunition shall be deposited, shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

If by stress of weather powder is not landed, notice must be given thereof.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the master or owner of such vessel shall,

so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other Officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

Time &c., for vessels outward-bound to take in powder may be fixed by Government.

XXXIV. The Local Government may also, in respect to such Port, by order, fix the times and places at which, and the manner in which, vessels outward-bound, requiring to take in any gunpowder, rockets, or other combustible ammunition, exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition, shall have been previously landed from such vessel or not.

Penalties for having prohibited powder, &c. on board.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other Officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Exception.

Guns not to be discharged in Port.

XXXVI. If any person shall, without lawful excuse, discharge any gun musket, or other fire-arm in any Port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Exception.

Penalty.

XXXVII. In

XXXVII. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One Hundred Rupees.

Special Rule.

Unauthorized person not to search for lost anchors or stores.

Penalty.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any Officer employed by the Local Government for that purpose, from the bed of any Port, River, or Channel subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery; a registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and such holidays as the Local Government may direct; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

Salvage payable for wreck, &c.

Register to be kept.

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith; and if not of a perishable nature, may be sold at any period not less than six months after the recovery thereof, by Public Auction; and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXIII as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

Property recovered may in certain cases be sold.

Proceeds how to be applied.

Special Rule.

Removing stones, &c., or injuring Shores of Port, prohibited.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government, no person, without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the Bank or Shore of such Port, River, or Channel; and no person shall sink or bury in any part of such Bank or Shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such Bank or Shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such Bank or Shore.

Penalty.

Levy of Port-dues.

XLI. The dues and fees now usually collected at the several Ports within the said Territories, may, during the period of one year from the time of the passing of this Act, be collected at such Ports respectively. No Port-dues or fees shall hereafter be levied in any such Port except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI of 1831 of the Bombay Code and Act XIII of 1854, or of fines or duties payable under Act XXVII of 1850.

Local Government may vary the Port-dues.

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that Port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorized to be taken by this or any subsequent Act.

Proviso.

XLIII. Th

Local Government may also remit or reduce Port-dues on any vessels during the period of one year after the passing of this Act.

XLIII. The Local Government may also, during the period of one year after the passing of this Act remit altogether or reduce the rate of dues and fees now usually collected on any particular description of vessels.

Distinct accounts of Port-dues to be kept, and an abstract thereof to be published.

XLIV. For every Port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the Port to which it relates, shall be kept by such Officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the Port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the Port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any Port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the Port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the Port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such Port, shall be charged in the Port Fund Account of that Port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such Port, shall be credited in the Port Fund Account of that Port.

Collection of Port-dues.

XLV. The Collector of Customs at every such Port, or such other Officer as the Local Government shall appoint, shall collect the Port-dues above-mentioned. The Officer to whom any such Port-dues shall be paid, shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his Office, the port or place at which the same

Voucher to be given.

same shall be paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

Master to report the arrival of vessel to Harbour Master.

XLVI. Within twenty-four hours after the arrival, within the limits of any such Port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such Port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty.

Conservator may in certain cases ascertain the draught, and charge the expense thereof to the Master.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act, shall be in any such Port without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may, in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessel shall be liable to pay the expenses of such operation.

Tonnage of vessel liable to Port-dues how to be ascertained.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following rules shall be observed :—

If registered.

Clause 1.—If such vessel be a British registered vessel, or a vessel registered under Act X of 1841, or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection; and if any such Master or other person shall, without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master, or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator

as

as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

If not registered.

Clause 2.—If such vessel be not a British registered vessel, or a vessel registered under Act X of 1841, or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

On refusal to pay Port-dues, &c., the Collector may distrain and sell.

XLIX. If the Master of any vessel, in respect of which any Port-dues, fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same, or any part thereof, on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest, of his own authority, such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand.

L. The

No Port clearance to be granted until dues, &c., are paid.

L. The Officer of Government, whose duty it shall be to grant a Port clearance for any vessel, shall not grant such Port clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such vessel in respect thereof, shall be liable under this or any subsequent Act.

Conservator, &c. may go on board any vessel in discharge of his duty.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs or other Officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so to do, for the performance of any duty imposed upon such Collector or other Officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall, without lawful excuse, refuse to allow any such Conservator or any of his Assistants or any such Collector of Customs, or other Officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for preventing entry.

Penalty for obstructing Officer in discharge of his duty, &c.

LII. If any person shall wilfully obstruct or hinder any Officer in the execution of any duty imposed or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.

LIII. All acts, orders, or directions by this Act authorized to be done or given by any Conservator, may, subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act, may call to his aid such assistance as may be necessary.

LIV. If

Penalty for hoisting unlawful colors in Port.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17 and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute to be made in that behalf; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

Offences how punishable and penalties how to be recovered.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And in addition to the means prescribed by Act II of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

Costs of conviction.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction in addition to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

LVII. In

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Damages, &c., payable under this Act, how to be ascertained and recovered.

LVIII. In any case in which any penalty, damages, or expenses shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Costs of Distress.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment, may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate; who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Magistrate to determine the amount to be levied in case of dispute.

LX. Nothing in this Act shall extend to any vessel belonging to, or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right, except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

Act not to extend to vessels of war, nor to affect any private right of property, nor any Customs law or regulation.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of any Deputy, or Assist-

Indemnity to East India Company against default of Harbour Master, Pilot, &c.

ant

ant of any of the Officers above-mentioned; or of any person acting under the authority or directions of any such Officer or Assistant, done within the limits of such Port, River, or Channel; nor for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

Proviso.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wale's Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Interpretation of word "Magistrate" in this Act.

LXIII. Whereas divers Ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act; it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act, in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed; and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Jurisdiction over offences beyond the local limits of jurisdiction.

Conviction to be quashed on merits only. Form of conviction, &c.

LXIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Construction of Act.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the Territories under the Government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel, shall mean and include any person having for the time being the charge, or command, or control of such vessel.

ACT No. XXIII of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 13th August 1855.)

AN ACT *to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.*

Preamble.

WHEREAS it is expedient that the Law, under which the real and personal assets of deceased persons subject to the English Law are administered, should be amended; It is enacted as follows:—

Mortgage debts on property descending or devised, how to be discharged.

I. After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the Territories in the possession of, and under the Government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such land or hereditaments shall descend or be devised, shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts

debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise: Provided also that nothing herein contained shall affect the rights of any person claiming under, or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased.

Proviso as to claims made prior to this Act.

BENGAL SECRETARIAT LIBRARY

ACT No. XXIV OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 13th August 1855.)

AN ACT *to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts.*

Preamble.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation, ~~and to amend the law relating to the removal of European and American Convicts for the purpose of imprisonment~~; It is enacted as follows:—

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the Government of the East India Company, to be transported.

Terms of penal servitude instead of the present terms of transportation.

II. Any person who, but for the passing of this Act, would, by any Law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered, by any such Court, to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The

ONE ANNA 3 PIE.

The terms of penal servitude to be awarded by any sentence or order, instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

Discretion of Courts as to alternative punishments not to be affected.

III. Provided always that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

IV. If

IV. If any offender sentenced by any Court within the said territories to the punishment of death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

Effect of pardon granted upon condition of penal servitude.

V. It shall be lawful for the Governor General of India in Council or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude.

Term of penal servitude in such case.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order, from time to time direct; and may during such time, be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Persons under sentence of penal servitude where to be sent and how to be dealt with.

Intermediate imprisonment.

Proviso.

VII All

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act, be construed to extend and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.

VIII. The person or persons for the time being administering the Executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment for a term exceeding one year, whether with or without hard labour, may, with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confined to any other public prison or place of confinement within any part of the said territories; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the Jail to which the prisoner is removed.

Removal of European or American convicts under sentence of imprisonment from one prison to another.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions in all respects as to the Governor General of India in Council shall seem fit; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

Governor General in Council may grant a license to be at large to any convict under sentence of penal servitude.

X. So long as such license shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of such license not to be imprisoned, &c.

XI. In

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India by order in writing, to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said Territories, and shall have the same force and effect in any place within such Territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed; and such convict, when apprehended under such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

If license revoked, the convict may be apprehended and committed to prison.

XII. If a license be granted under Section IX of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or, knowing of the revocation of such license, shall neglect forthwith to surrender himself, or shall conceal himself or endeavour to avoid being apprehended, he shall be liable, upon conviction, to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Penalty for breach of condition of the license.

XIII. Nothing

Act not to affect the provisions of certain English Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

What to be deemed proof that a person is a European or an American.

XIV Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

Construction of Act.

XV. The word "European," as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

Commencement of Act.

XVI. This Act shall commence from and after the first day of November 1855.

ACT No. XXV OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 8th September 1855.)

AN ACT *to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.*

Preamble.

WHEREAS it is expedient to provide that persons charged with offences committed on the Neilgherry Hills, for which they are amenable to the jurisdiction of the Session Judge of Coimbatore, shall be tried at Ootacamund; It is enacted as follows:—

Session Judge of Coimbatore empowered to hold Sessions at Ootacamund on the establishment of a subordinate Criminal Court constituted according to Regulation VIII of 1827 of the Madras Code.

I. When the Governor in Council of Fort St. George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII of 1827 of the Code of Fort St. George, it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons committed by that Court for offences subject to his jurisdiction.

Principal Sudder Ameen to give notice of commitment to Session Judge.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore, a prisoner charged with a crime or misdemeanor subject to the jurisdiction of that Court, he shall give immediate notice of the commitment to the Session Judge, and the Session Judge shall, within two months from the date of the commitment, proceed

proceed to hold a Court at Ootacamund for the trial of such prisoner; and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

Principal Sudder Ameen vested with certain Criminal powers.

III. It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court constituted according to Regulation II of 1827; and also, by appointment of the Government of Fort St. George, all the powers of a Joint Magistrate.

ACT No. XXVI of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th September 1855.)

AN ACT *to facilitate the payment of small deposits in Government Savings Banks to the representatives of deceased depositors.*

Preamble.

WHEREAS it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the territories in the possession and under the Government of the East India Company to the representatives of such depositors: It is enacted as follows :—

Secretary of Government Savings' Bank in certain cases, to pay, without probate, &c., money belonging to the estate of a deceased depositor.

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his Will or letters of administration of his estate or effects, or a certificate granted under Act No. XX of 1841, or under Section IV of Act No. X of 1851, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who shall appear to him to be entitled to receive the same or to administer the effects of the deceased; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against

Payment to be a discharge.

Saving of right of executor, &c.

And of creditor.

against the estate of the deceased shall be at liberty to recover his debt or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Security for due administration.

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay any money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Power to administer oath, &c.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

Penalty for false testimony.

Administrator General not to grant certificate in respect of money deposited.

IV. From and after the passing of this Act, no Administrator General of a Presidency shall grant a certificate under Section XLIII of Act No. VIII of 1855 in respect of any sum of money deposited in a Government Savings' Bank.

Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings Bank belonging to the estate of any European Officer or Soldier dying in Her Majesty's Service in India, or of any European Officer or Soldier dying in the Service of the East India Company, or to the estate and effects of any Officer, Seaman, or other person dying in the Marine Service of the said Company called the Indian Navy, or to the estate and effects of any person who, at the time of his death, was a deserter from any of the said Services.

ACT No. XXVII of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th September 1855.)

AN ACT *to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Banks.*

Preamble.

WHEREAS it is expedient to authorize the several Banks of Bengal, Madras, and Bombay to transact the kinds of business hereinafter mentioned; It is enacted as follows:—

Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of Government Securities and Shares in the said Banks.

I. In addition to the kinds of business in which the Bank of Bengal, the Bank of Madras, and the Bank of Bombay may now by law be respectively engaged, it shall be lawful for any of the said Banks to transact all or any of the following kinds of business, either with or without receiving commission or payment for the transaction thereof. that is to say:

First.—To take charge of any Government Securities or shares in any of the said Banks.

Second.—To receive the interest or dividends on any such Securities or shares.

Third.—To invest any money deposited in any of the said Banks in the purchase of any such Securities or shares.

Fourth.—To sell or transfer any such Securities or shares deposited with them: or to receive any principal money that may become payable thereon.

Fifth.—To

Fifth.—To re-invest the principal, interest, or dividends so received or the proceeds arising from such sale in Government Securities or shares in any of the said Banks, or to hold or pay such principal, interest, dividends, or proceeds, or, according to the instruction of their constituents and at their risk, to remit the same by public or private Bills, whether payable in India or not, and to do all acts necessary or proper for the purpose of making such remittances. Provided that, if any such remittance be made by a note or bill of any of the said three Banks, the same must be payable in India on demand.

ACT No. XXVIII OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 19th September 1855.)

AN ACT *for the repeal of the Usury Laws.*

Preamble.

WHEREAS it is expedient to repeal the laws now in force relating to Usury; It is enacted as follow:—

Section 30 of Cap. 63 of 13 Geo. III., and Regulations repealed.

I. Section XXX of the Act of Parliament passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled "an Act for establishing certain Regulations for the better management of the affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the Government of the said Company to any bond, contract, or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several parts of Regulations mentioned in the Schedule hereto annexed, and all laws in force in any part of the said territories relating to Usury, are hereby repealed.

What rate of interest shall be decreed by the Court in any suit.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon a judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or at such other rate as the Court shall think fit.

IV. A

IV. A mortgage or other contract for the loan of money by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

Contract for the usufruct of property, in lieu of interest, to be binding.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

Proviso.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed property, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein ; or, if no rate of interest shall have been stipulated and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

Rate of interest on future adjustments of accounts.

VII. Nothing hereinbefore contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done, or contract entered into, previously to the passing of this Act.

Transactions previous to this Act not to be affected.

VIII. This Act shall commence and take effect from the 1st day of January 1856.

Commencement of Act.

SCHEDULE.

Sections IV, VI, VII, VIII, IX, X, and XI Regulation XV. 1793 of the Bengal Code.

Sections

Sections III, V, VI, VII, VIII, IX, and X Regulation XXXIV. 1803 of the same Code.

Clause I Section XXIII Regulation VIII. 1805 of the same Code, so far as it extends the above-mentioned Sections of Regulation XXXIV. 1803 to the Zillahs therein referred to.

Clauses 3, 4, 5, and 6 Section IX Regulation XIV. 1805 of the same Code; and so much of Section XI of the same Regulation as may be deemed to have extended to the Zillah of Cuttack any of the Clauses or Sections above-mentioned or any law relating to Usury.

Section II Regulation XVII. 1806 of the same Code, so far as it extends to the Province of Benares, subject to modifications, the above-mentioned Sections of Regulation XV. 1793; and Sections IV and VI of the same Regulation.

Sections II, IV, V, and VI Regulation XXXIV. 1802 of the Madras Code; and Section VIII of the same Regulation, so far as it may be deemed to limit the rate of interest to be allowed on mortgaged bonds.

Section XXII Regulation IV. 1816 of the same Code.

Section XIV Regulation V. 1816 of the same Code.

Section XV Regulation VI. 1816 of the same Code.

Section XIII Regulation VII. 1816 of the same Code.

So much of Section VII Regulation II. 1825 of the same Code as limits the rate of interest to be allowed by the Courts on bonds or other instruments which shall be entered into after the passing of this Act.

Sections X, XI, and XII Regulation V. 1827 of the Bombay Code.

ACT No. XXIX of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 23rd October 1855.*)*

AN ACT *for amending Act No. VI of* 1844.

Preamble.

WHEREAS it is prescribed, by Regulation II of 1803 of the Madras Code, that the Collectors of the public revenue, derived from duties on commodities by Sea or Land, as well as from other sources, shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board ; and it is expedient to amend Act No. VI of 1844, in so far as it may be construed to exempt any orders or proceedings of officers employed in the collection of Customs from the revision and control of the said Board of Revenue, and in so far as it makes the proceedings of Collectors of Customs depend upon the orders of Government in certain cases : It is enacted as follows :—

Board of Revenue empowered to revise proceedings of officers employed in the collection of Sea Customs and Land Frontier Customs.

I. The Board of Revenue is empowered to revise the proceedings of all officers employed in the collection of Sea Customs and Land Frontier Customs, under Act No. VI of 1844, and to annul or modify the orders of such officers.

Board, instead of Governor in Council, to pass orders in certain cases.

II. The Board of Revenue is empowered, instead of the Governor in Council, to pass orders in all cases in which, by the proviso in Section XVII Act No. VI of 1844 relating to baggage, and by Sections XXVI and LXI of the same Act, the proceedings of the Collectors of Customs are dependent on the orders of Government.

III. In

Appeal in certain cases to lie to Board instead of Governor in Council.

III. In case of imported goods being charged by a Collector of Customs, under the first rule annexed to Schedule A of Act No. VI of 1844, with a rate of duty above what they are liable to on the declaration of the importer as to the place of manufacture or production, an appeal shall lie to the Board of Revenue, instead of the Governor in Council.

ACT No. XXX OF 1855

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 25th October 1855.*)*

AN ACT *to repeal Section VII of Act No. XXVIII of* 1839.

Preamble.

WHEREAS it is expedient to repeal Section VII of the said Act, the provisions thereof being unnecessary—

Section VII Act XXVIII. 1839 repealed.

I. It is enacted that Section VII of Act No. XXVIII of 1839 be repealed.

ACT No. XXXI OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th November 1855.)

AN ACT *relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.*

Preamble.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of the Territories in the possession and under the Government of the East India Company, to the British Colonies of Saint Lucia and Grenada, and to provide regulations for ships carrying Native Emigrants from the said Territories to either of the said Colonies: It is enacted as follows:—

Partial repeal of Act XIV of 1839.

I. Act No. XIV of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colonies of Saint Lucia and Grenada, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay, respectively, to the said Colonies, is repealed.

Natives may emigrate from Calcutta, Madras, and Bombay to Saint Lucia and Grenada.

II. After the passing of this Act, Native inhabitants of the said Territories shall be allowed to pass and to be conveyed as Emigrant laborers to Saint Lucia and Grenada, respectively, from the Ports of Calcutta, Madras, and Bombay, respectively, but not otherwise.

III. At each of the three Ports aforesaid, it shall be lawful for the Government of the Presidency or place within which the Port is situated, to authorize such person or persons as may be nominated by the Governments of Saint Lucia and Grenada, respectively, to act as Emigration Agents at the aforesaid Ports respectively, and to exercise the powers conferred on Emigration Agents by this Act; and every such Emigration Agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

Appointment and duties of Emigration Agents.

IV. The Protector of Emigrants at each of the three Ports aforesaid shall act as protector of laborers emigrating under the provisions of this Act from the aforesaid Ports respectively.

Protector of Emigrants.

V. It shall not be lawful to convey any Emigrant, being a Native of India, who may embark for the purpose of laboring for hire in either of the said Colonies from any of the Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency or place in which the Port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license, the Master of every ship conveying, or destined to convey, Emigrants from India, shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees, to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the Government of such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be conveyed, without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor,

Emigrant ships to be licensed.

Fee for license.

Master of ship to give bond.

Penalty if ship be not licensed.

misdemeanor, to a fine of 1,000 Rupees for every such Emigrant so illegally conveyed.

Master of vessel not to receive on board any Emigrants without a certificate.

VI. It shall not be lawful for the Master of any vessel licensed as above-mentioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his possession and show a certificate or pass, to be given to him by the Emigration Agent of the Port, countersigned by the Protector of Emigrants, stating his name, and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Certificate what to state, &c.

Before Port-clearance, Master of ship to obtain certificate from Emigration Agent stating—

VII. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for either of the said Colonies, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Emigration Agent, so nominated and authorized at such Port as aforesaid, a certificate, under the hand of such Agent, to the effect following, that is to say—

That the third Article in the Schedule has been complied with.

First.—That such Agent has, by personal communication, done what is required on the part of such Agent by the third Article of the Schedule hereunto annexed; provided always, that every such Agent shall make the enquiries specified in such Schedule in an open Court or public Office, to which all persons shall have admission.

Proviso. Inquiries therein specified to be public.

That the directions in the Schedule, as to health, &c., have been complied with.

Second.—That all the directions contained in the fourth, fifth, sixth, and seventh Articles of the said Schedule, for ensuring the health and safety of passengers, have been duly complied with.

That the Government Rules touching

Third.—That (in addition to the directions contained in the said Schedule) such Rules have been complied with as the Governor General in Council shall from time to time frame, touching

ing

medical attendance, clothing, &c., have been complied with.

ing the medical attendance and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

VIII. The probable lengths of the voyages to Saint Lucia and Grenada, from the Ports aforesaid, respectively, shall, for the purposes of this Act, be deemed to be—

Probable lengths of voyage.

From the Port of Calcutta, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks; and that no ship or vessel carrying Emigrant laborers to Saint Lucia or Grenada shall sail from Calcutta, Madras, or Bombay at any other time than between the 31st day of August and the 1st day of March next thereafter ensuing.

Time of sailing.

IX. Before any ship or vessel shall be cleared out from any of the aforesaid Ports for Saint Lucia or Grenada, it shall be necessary for the Master thereof to deliver to the Emigration Agent, so nominated and authorized at such Port as aforesaid, the list specified in Article 10 of the said Schedule, and to obtain such duplicate thereof as is required by the said Article.

Master to deliver list to Emigration Agent.

X. If the Master of any ship or vessel shall, at any of the Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for Saint Lucia or Grenada without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for clearing ship without complying with Rules.

XI. If

XI. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for Saint Lucia or Grenada, take on board any such Emigrant laborer as aforesaid, without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XII. If any Master of any ship or vessel cleared for Saint Lucia or Grenada as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers or other matters to which such certificate relates, such Master shall be liable, on conviction, to a penalty not exceeding five thousand Rupees, beside incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Penalty for fraudulent acts, whereby certificate becomes inapplicable to the altered state of the vessel.

XIII. All the powers vested by Law in the Officers of Customs in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of the illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for Saint Lucia or Grenada, and of other offences against this Act; and all Pilots in the Service of the East India Company shall be invested with the same powers, and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XIV. Whenever a vessel shall clear from Calcutta for Saint Lucia or Grenada with Emigrant laborers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a register

Custom House Officers and Pilots at Calcutta to countersign papers.

of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and passengers and Emigrant laborers has been made in his presence, and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in Section XIII of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete Report of the Emigrant laborers on board of any ship at the time of his quitting the same, and such Report shall contain a declaration that, to the best of the declarant's belief, no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster, if any, shall be transmitted without delay to the Emigration Agent of the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable, if not paid, to imprisonment in the Calcutta Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

To muster crew and passengers and Emigrants.

Report of Emigrants on board.

Penalty.

XV. If any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

XVI. All the several penalties to which the Masters of ships or vessels are liable by this Act, shall be enforced by information laid before any Justice of the Peace at the instance of the Emigration Agent or of any Officer appointed for the purpose by the Government

Penalties how to be enforced.

Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Act when to take effect.

XVII. This Act shall take effect as to the said Colonies respectively from the day when the Governor General of India in Council, or in his absence the President in Council, shall notify in the *Calcutta Gazette*, that such Regulations have been provided, and such measures taken, as he may deem necessary for the protection of such Emigrants during their residence in such Colony, and in respect of their return to India.

SCHEDULE.

Appointment of Emigration Agent.

1. The Governors of Saint Lucia and Grenada may, from time to time, nominate such persons as they shall see fit to act as Emigration Agents at Calcutta, Madras, and Bombay.

Remuneration.

2. The remuneration to be given to any such Agent in India shall not depend upon or be regulated by the number of Emigrants sent by him, but shall be in the nature of an annual salary.

Duty.

3. Every such Emigration Agent shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the port or place for which such Agent shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and such Agent shall explain the real advantages likely to be derived by such Emigrant from a removal to such Colony, at the same time cautioning such Emigrant against unreasonable and unwarrantable expectations; and such Agent shall also ascertain that every such Emigrant is in good health and not incapacitated from labor by old age, bodily infirmity, or disease.

Number of passengers.

4. It shall not be lawful to ship on board of any ship or vessel carrying Emigrants from India to either of the Colonies aforesaid, any number of passengers exceeding the proportion

of

of one person for every two tons of the registered burthen of such ship or vessel; and no such ship or vessel carrying Emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the least, and such platform shall not be so laid as that the lower beams shall project above the same; and no such ship or vessel shall have more than two tiers of berths; and no such ship or vessel shall carry passengers on any such voyage to any of the Colonies aforesaid, unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier, throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores not being the personal luggage of such person.

Children.

5. In the computation of the number of passengers within the meaning of these Regulations, two children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

Provisions.

6. There shall be actually laden on board of every ship or vessel conveying Emigrants into either of the Colonies aforesaid, at the time of departure of such ship or vessel from the port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say, a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a port or place in the course of her voyage, for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every

every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regulation regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor General of India in Council, any other articles of food were substituted for the articles above enumerated, as being, in his judgment, equivalent thereto.

Survey of ship.

7. Before any such ship or vessel shall be cleared out on any such voyage, the Emigration Agent appointed for the port or place from which such ship or vessel shall be cleared out shall survey, or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Master to furnish provisions.

8. The Master of every ship or vessel conveying Emigrants to Saint Lucia or Grenada shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Copies of Rules.

9. Two copies of these Regulations, and two copies of a translation thereof in the Bengalee language, or such other language as the Government may direct, authenticated by the signature of the Emigration Agent at the port or place at which such Emigrants shall embark, shall be delivered to the Master by such Agent, at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such

copies or translations shall, upon request made at reasonable times to the Master of the ship or vessel, be produced to any passenger for his perusal.

List of Emigrants.

10. The Master of every ship or vessel carrying Emigrants from India to either of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to such Emigration Agent, at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Agent shall thereupon deliver to the said Master the counterpart of such list signed by such Agent; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the Protector of Emigrants appointed, or to be appointed, at the Colony at which the said ship or vessel may have arrived.

Rules not applicable to ships of war.

11. Provided always that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty or to any of Her Majesty's Ships of War.

ACT No. XXXII of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 30th November 1855.)

AN ACT *relating to Embankments.*

Preamble.

WHEREAS the Regulations now in force for the maintenance of embankments in the Territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purposes thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same: It is enacted as follows:—

Regulations repealed.

I. Regulation VI of 1806 and Regulation XI of 1829, so far as they relate to the said Territories, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

What is a public embankment within this Act.

II. The word "embankment" in this Act means an embankment for the purpose of excluding or retaining water; and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

Who to have superintendence of public embankments.

III. The superintendence of the public embankments shall be entrusted, subject to the general orders of Government, to an Officer who shall be called the Superintendent of Embankments.

IV. *Clause* 1.

IV. *Clause* 1.—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Superintendent may take charge of any embankment which connects public embankments, &c.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

And remove private embankment endangering a public embankment.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

And change the line of any public embankment or make a new embankment.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

And enlarge embankment, &c.

V. *Clause* 1.—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Before taking charge of private embankments, &c., Superintendent to give notice to Collector, who shall issue a proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the Cutcherry of the Collector, the Mal Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the neighbourhood thereof. The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Publication of proclamation.

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon, to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Procedure on appearance of parties.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue, and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

Appeal from orders of Superintendent and Commissioner of Revenue.

Clause 5.—Subject to the right of appeal above-mentioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Orders not open to revision by the Civil Court.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up, to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person. Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Maintenance of private embankments taken charge of by the officers of Government.

Proviso.

VII. *Clause* 1.—When the Superintendent of Embankments shall enlarge or change the line of any embankment, or make a new embankment, or cause an embankment to be removed, any person sustaining damages thereby, who, but for

Compensation for damages sustained under this Act.

for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be rejected, the claimant shall not be deprived, by reason of this Act, of any right which he might otherwise have had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

Appointment of arbitrators.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing, and neither of the said parties shall have power to revoke the same without the consent of the other.

Arbitrator how to be chosen when there are several claimants for compensation.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties, or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Appointment of a third arbitrator.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having

having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two arbitrators may make an award.

Arbitrator refusing or becoming incapable to act, &c.

Clause 5.—If any person, on being appointed an arbitrator, shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Collector empowered to enforce attendance of arbitrators.

Clause 6.—After the arbitrators have accepted the appointment, the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

In default of award within a specified period, fresh arbitrators may be chosen.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators, to be chosen in the same manner and subject to the same rules as the first.

Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom

 the

the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirmation to be made and signed before them. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Award of the arbitrators.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *primâ facie* evidence thereof.

Payment of compensation may in certain cases be deferred.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any ground which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Reversal or alteration of award.

Clause 11.—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards as aforesaid, shall be dismissed with costs. But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Suits and proceedings against Government, except suits for reversal of awards, to be dismissed with costs.

Proviso.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Estimated value of benefit to be set off against the compensation to be awarded.

Clause 14.—The provisions of this Section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the Officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section XII of this Act.

The provisions of this Section not to apply to cases of compensation in respect to huts, trees, or crops.

VIII. *Clause* 1.—If any landholder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense

Application by landholder to have a sluice made in a public embankment.

pense of the State, whether the applicant is willing to bear such part, not exceeding half, of the cost thereof, as may be determined by Government—and, as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to, and attendant on, the proposed work, as may be determined as aforesaid.

Officer in immediate charge of embankments to report on the proposed work.

Clause 2.—The Collector shall transmit such application to the Officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and, if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Upon the applicant engaging to defray the cost, Collector may issue certificate.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause 1 of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the Officer in charge of the public embankments of the district, to construct the sluice.

Opening of sluices.

IX. Sluices constructed in any public embankment shall be opened only by, or with the permission of the Officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the Officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Officer in immediate charge of embankments may authorize temporary water-course, &c. to be made.

X. Whenever any person is desirous that a temporary water-course should be made through, or that a temporary roadway should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest Officer of the Embankment

Embankment Department, who shall communicate the application to the Officer in charge of the public embankments of the district, and that Officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of, and incident to, making such roadway, or of making and closing or removing such water-course or dam. In any case of emergency the Officer in immediate charge of an embankment, subject to such general instructions as he may receive from the Officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankment.

Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.

XI. *Clause* 1.—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others, shall be prepared as soon after the rains in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office ; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Accounts to be forwarded to the Collector, who may recover the amount as arrears of Government revenue.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or roadways through or over any public embankment, or executing any

 other

other work, the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankments, be forwarded to the office of the Collector, and may be there examined by any person interested. Notice of the receipt of the accounts shall be posted up in the Collector's office; and if, within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

Superintendent to report to Collector as to removal of buildings, &c.

XII. *Clause* 1.—Whenever the Superintendent of Embankments shall be of opinion, that the removal of any houses, huts, or other buildings, situated between a public embankment and the river, is necessary, he shall make a report to that effect, accompanied by a detailed statement of the houses, huts, or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

Collector to give notice to claimants,

Clause 2.—When such report is received, the Collector shall cause a notice, containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less

less than fifteen days from the date of such proclamation, in order to make known the amount and particulars of their claim to compensation to a Jury to be appointed in the following manner.

Selection of Jury.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

Proceedings of Jury.

Clause 4.—The Jury shall assess the value of each house, hut, or building separately. If in any case they differ, the value shall be assessed according to the opinion of the majority; and if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Award of Jury.

Clause 5.—Having completed their proceedings, the Jury shall make their award, which shall contain a schedule of the houses, huts, and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award Collector to give notice of payment, and to remove buildings &c. in 30 days.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts, or other buildings within thirty days from the date of such notice.

XIV. If

XIV. If, on the expiration of the above stated period, the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in removing or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

Collector may remove buildings, &c., at the cost of the owners, in case they neglect to do so themselves.

XV. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer or person in discharge of duty.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy, any such embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labor, or to fine, or to both.

Penalty for wilful damage to embankment by cutting, &c.

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river, without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river,

Penalty for other wilful damage.

or.

or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embankment shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate under this Act.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council with respect to the punishment of misdemeanors.

Provision of Section XIII Regulation XX. 1817 extended to this Act.

XIX. The provision of Section XIII Regulation XX of 1817 shall extend to any charge or information of the offences specified in Section XVI of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

Right of appeals.

XX. All sentences and orders passed by a Magistrate, Deputy Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

XXI. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular; words importing the masculine gender only shall include females; the word "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

ACT No. XXXIII OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 7th December 1855.)

AN ACT *to prohibit the exportation of Saltpetre, except in British vessels bound to the Ports of London or Liverpool.*

Preamble.

WHEREAS it is expedient that, during the continuance of hostilities between the Allied Powers and the Emperor of Russia, the exportation of Saltpetre from India, except in British vessels bound to the Port of London or to the Port of Liverpool, should be prohibited: It is enacted as follows:—

Export of Saltpetre from India, except in British vessels bound to London or Liverpool, prohibited.

I. Until the Governor General of India in Council shall otherwise order, it shall not be lawful for any person to export Saltpetre from any part of the Territories in the possession and under the Government of East India Company, except in a British vessel bound either to the Port of London or to the Port of Liverpool.

Saltpetre to be confiscated, in case of attempt to export contrary to this Act.

II. If any person shall attempt to export Saltpetre contrary to the provisions of this Act, the same shall be seized and confiscated.

Penalty for exporting &c.

III. Every person who shall export or attempt to export Saltpetre contrary to the provisions of this Act, or who shall aid or assist in such exportation or attempt, shall, upon conviction before a Magistrate or a Justice of the Peace, be subject to a fine not exceeding the rate of 200 Rupees for every ton of Saltpetre so exported or attempted to be exported.

IV. No

Officer of Customs not to grant a pass or permit after the 17th November 1855, except according to this Act.

IV. No Collector or other Officer of Customs shall, on or after the 17th day of November 1855, grant a pass or permit for the exportation or shipment for exportation of Saltpetre from any part of the said Territories, except in a British vessel bound for the Port of London or for the Port of Liverpool; and every Collector and other Officer of Customs is hereby indemnified for any thing heretofore done or hereafter to be done according to the provisions of this Act.

Act not to extend to Saltpetre shipped, or for the shipment of which a pass was granted before the 17th November 1855.

V. Nothing in this Act shall extend to any Saltpetre shipped prior to the 17th day of November 1855, nor to any Saltpetre for the exportation or shipment for exportation whereof, otherwise than according to this Act, a permit or pass was granted on or before that day.

Seizure of Saltpetre.

VI. Any Custom House Officer may without warrant seize Saltpetre liable to confiscation under this Act.

Adjudication of confiscation.

VII. If any Saltpetre shall be seized as liable to confiscation, the Collector of Customs shall investigate the case, and, according to his judgment, shall either release the same or adjudge it to confiscation; and whenever he shall declare the same to be confiscated, he shall report his proceeding for confirmation and final adjudication to the superior Revenue authorities.

Fines how to be levied.

VIII. Any person, whether a European British subject or not, who shall be guilty of any offence for which, according to the provisions of this Act, he shall be liable to a fine, shall be punishable for such offence by any Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate; and any person hereby made punishable by a Justice of the Peace, shall be punishable upon summary conviction.

ACT No. XXXIV OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th December 1855.)

AN ACT *to explain and amend Act No. XXXIII of* 1852.

Preamble.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment.

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Proviso.

Such Court may, in certain cases, stay execution of judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof, for an order to stay the execution, or for any other order relating

relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Court may, in such cases, take security, &c. from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor, under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII of 1852.

VI. This Act shall be read with, and taken as part of, Act No. XXXIII of 1852.

ACT No. XXXV OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 14th December 1855.)

AN ACT *to abolish the levy of Customs Duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal.*

Preamble.

WHEREAS it is expedient to remove all restrictions to the importation of Cotton into the North-Western Provinces in the Bengal Presidency: It is enacted as follows:—

Portion of Act repealed.

I. So much of Section II Act No. XIV of 1843 as prescribes the levy of duties of Customs on the import of Cotton, uncleaned or cleaned, into the North-Western Provinces of the Presidency of Bengal, is hereby repealed.

Repeal of so much of Schedule of Act XIV 1836 as allows a drawback.

II. So much of Schedule B. Act No. XIV of 1836 as allows a drawback of the land-frontier duty paid upon Cotton-wool is hereby repealed from the first day of July 1856.

ACT No. XXXVI of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 21st December 1855.)

AN ACT *to empower Officers of Customs and Land Revenue to search Houses and other enclosed places for contraband Salt in the North-Western Provinces.*

Preamble.

WHEREAS the existing Laws do not empower Officers of Customs or Land Revenue in the North-Western Provinces of the Presidency of Bengal to search houses and other enclosed places for Salt manufactured or stored contrary to the provisions of Act XIV of 1843, and it is expedient to give them power to do so: It is enacted as follows:—

Particulars to be recorded by officer on receipt of information as to unlawful manufacture of Salt, &c.

I. Whenever any Collector or other Officer of Customs or Land Revenue, not being under the grade of Assistant Patrol in the Customs department, or of Naib Tehseeldar in the Revenue department, receives credible information that, within his jurisdiction, Salt is unlawfully manufactured, in any dwelling-house, ware-house, or other enclosed place, or that Salt is unlawfully stored in any such house or place within the limits of Customs jurisdiction as defined by the Government of the North-Western Provinces of the Presidency of Bengal under the provision of Section III of Act XIV of 1843, he shall first record in writing the name, residence, and calling of the informant, the locality and description of the house or place where he believes the Salt to be manufactured or stored, and the name of the owner or occupant of such house or place, or the name of the person for or by whom such

such Salt is manufactured or stored, and with respect to Salt stored the supposed quantity and description of such Salt, with the grounds for believing the same to be contraband.

Officer thereupon may summon Police and proceed to search a house for contraband Salt.

II. The said Officer, after recording the particulars aforesaid, may summon from the nearest Police Station a Police Officer, not being under the grade of a Jemadar, to attend him, and with such Police Officer and informant proceed to the said house or place, and in their presence search the same for Salt unlawfully manufactured or stored; provided that such search be not made between sunset and sunrise.

Proviso.

Officer may break open doors.

III. The said Officer, in company with such Police Officer, may break open the door or force an entry within the said house or place, if, upon requisition duly made, the door be not opened, or admission be refused, by the owner or occupant thereof.

Rules regarding forcible entry.

IV. A forcible entry under the last preceding Section shall only be made in accordance with the rules and precautions prescribed by Regulation XX of 1817, and by Section X Regulation V of 1800 (for the Benares Province,) and Section XIX Regulation XXVIII of 1803 (for the Ceded and Conquered Provinces), for breaking into a house for execution of process of distraint. Provided, however, that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only.

Proviso.

What to be deemed contraband Salt.

V. No Salt found stored in any house or place within the limits of Customs jurisdiction mentioned in Section I of this Act, not being Salt unlawfully manufactured thereat, shall be deemed contraband, unless the quantity found shall exceed five seers in weight.

Penalty if Police Officer refuses or neglects to attend or aid in search or seizure.

VI. Whoever, being a Police Officer summoned under Section II, fails to attend himself or to depute a subordinate Police Officer, not being below the grade of a Jemadar, to attend, and any Police Officer who, after attending, refuses to aid

aid in the search for, or seizure of, contraband Salt, or in any way wilfully frustrates the object of the search or seizure, shall, on conviction before a Magistrate, be liable, besides being dismissed from office, to a fine equal to the amount of fine that would have been leviable on the owners or holders of the Salt, if it had been seized according to the information laid.

Penalty for vexatious search and for giving false information.

VII. Any Officer of Customs or Land Revenue, vested with power to carry into effect the provisions of this Act, who, under cover thereof, searches or causes to be searched any dwelling-house, ware-house, or other enclosed place, without reasonable grounds of suspicion that contraband Salt is there manufactured or stored, shall, upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine, or any portion thereof, may be paid over to the party aggrieved, and, in default of payment of such fine, with imprisonment for a period not exceeding six months; and any person wilfully and maliciously giving false information, and so causing a search to be made in any dwelling-house, ware-house, or other enclosed place, to the injury or vexation of the owners, occupants, or any other person or persons whatsoever, shall, on conviction before a Magistrate, be liable to the same penalty and also to imprisonment for a period not exceeding two years, with or without hard labor.

Every case of search to be reported to superior Officers.

VIII. Every search under this Act, whether the result thereof be the seizure of contraband Salt or otherwise, shall be reported within forty-eight hours by the Officer of Customs or Land Revenue and by the Officer of Police present at the search to their respective official superiors.

What to be deemed a manufacture of Salt.

IX. The purification or refinement of impure Salt, obtained in the manufacture of Saltpetre, so as to produce alimentary Salt, shall be deemed a manufacture of Salt within the meaning of this Act and of Act XIV. 1843.

ACT No. XXXVII of 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 22nd December 1855.)

AN ACT *to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.*

Preamble.

WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such Laws the District called the Damun-i-Koh, and other Districts which are inhabited principally by that tribe: It is enacted as follows:—

Certain Districts removed from the operation of the general Regulations of the Bengal Code.

I. *Clause* 1.—The Districts described in the Schedule to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the Laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no Law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said Districts, unless the same shall be specially named therein. Provided that nothing herein contained shall extend to or affect any case now pending in any Court, nor remove any part of the said Districts from

Proviso.

from the operation of Regulation X of 1804 of the Bengal Code; nor shall this Act affect any Revenue Settlement, nor any Law relating to the recovery of permanently settled Land Revenue due under the same, nor any Law relating to the sale of lands for arrears of Revenue, or relating to Putnee Talooks, or to the sale thereof for arrears of rent, nor any Law relating to Mutations or Butwara, or to any other matter to which the Lieutenant-Governor of Bengal shall at any time notify in the *Calcutta Gazette* that the General Laws and Regulations shall extend.

Districts to be under the superintendence of Officers subject to the control of the Lieutenant-Governor of Bengal.

Clause 2.—The said Districts shall be placed under the superintendence and jurisdiction of an Officer or Officers to be appointed in that behalf by the Lieutenant-Governor of Bengal, and such Officer or Officers shall be subject to the directions and control of the said Lieutenant-Governor.

Administration of justice and collection of Revenue vested in such Officers

Proviso as to suits exceeding the value of Rs. 1,000.

II. The administration of Civil and Criminal justice, and the collection of the Revenue, not being permanently settled Land Revenue, within the said Districts, are hereby vested in the Officer or Officers to be so appointed. Provided that all Civil suits, in which the matter in dispute shall exceed the value of one thousand Rupees, shall be tried and determined according to the general Laws and Regulations in the same manner as if this Act had not been passed. Provided also, that all permanently settled Land Revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

Collection of permanently settled Land Revenue.

Mode of administering Civil and Criminal justice.

III. In the administration of Civil and Criminal justice, the Officer or Officers appointed under this Act shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the futwa of a Law Officer; and he or they may hold his or their Courts either within the said District or at any place or places that may be appointed for that purpose by the said Lieutenant-Governor; and any person liable to be imprisoned

soned in any civil or criminal jail, may be imprisoned in any civil or criminal jail, as the case may be, which the said Lieutenant-Governor may order, whether the same be in or out of the said District.

Decisions to be final.

IV. *Clause* 1.—All decisions in Civil suits and sentences in Criminal cases, which shall be passed by such Officer or Officers, to the extent of the powers which may be from time to time conferred upon them respectively by the Lieutenant-Governor of Bengal, according to the provisions of this Act, shall be final. Provided that no sentence of death, passed by any such Officer, shall be carried into effect until it shall have been confirmed by the Sudder Court, and provided also that it shall be lawful for the said Lieutenant-Governor to direct that an appeal shall lie in any class of Civil suits or Criminal trials from any Officer appointed under this Act to any other Officer appointed under the same, and also to direct the Officer or Officers appointed under this Act to refer to the Sudder Court for sentence any class of Criminal trials.

Proviso.

Procedure on references to the Sudder Court.

Clause 2.—Upon the receipt of any Criminal trial referred to the Sudder Court under Clause 1 of this Section, the said Court shall, without submitting the proceedings for the futwa of their Law Officer, proceed to pass final judgment, or such other order as may seem to the Court requisite and proper, in the same manner as if the trial had been referred in ordinary course by a Sessions Judge; and in any case in which sentence of death passed by an Officer under this Act shall be transmitted to the Sudder Court for confirmation, the said Court may either confirm the same, or pass such other judgment warranted by Law, as may appear to the said Court to be just and proper.

Saving of Laws relating to European British subjects.

V. Nothing in this Act shall alter the Laws now in force with respect to the amenability of European British subjects to any Court or Officer for any act of a criminal nature committed within the District.

Act when to take effect.

VI. This Act shall take effect from such day as shall be fixed for that purpose by the said Lieutenant-Governor by notice to be published in the *Calcutta Gazette*.

SCHEDULE.

SCHEDULE.

BHAUGULPORE.

Pergunnah	Bhaugulpore, ...	(So much of it as is embraced within the Police jurisdictions of Colgong and Pursa.)
„	Bahaderpore.	
„	Chetowleeah.	
„	Colgong, ...	(So much of it as lies to the East of the Gerooa Nullah and to the South of the River Ganges.)
„	Godda.	
„	Hendwa.	
„	Jamoonee.	
„	Kankjole.	
„	Pussye.	
„	Sooltanabad.	
„	Teleeagurhee.	
„	Umber.	
„	Akbernuggur.	
„	Huzzar Tukkee.	
„	Inayutnuggur.	
„	Mukraeen.	
„	Sooltangunj.	
„	Umloo Moteea.	
Tuppeh	Belputta.	
„	Muneeharee.	
The	Damun-i-Koh, ...	Including the Rajmahal Hills.

BEERBHOOM,

Pergunnah	Dureen Molisser, (Northern portion.)	
Tuppeh	Kundit Kurayeh.	

Tuppeh

Tuppeh Mohumdabad.
Pergunnah Nonee.
„ Pubbia.
Tuppeh Saruth Deoghur.
Pergunnah Mullarpore.
„ Hurripore.
„ Hookmapore, ...(So much of it as lies North of the River More.)

Such portions of Pergunnahs appertaining to Purneah, Malda, and Moorshedabad, as lie on the right bank of the Ganges above the village of Downapore, in the Bhaugulpore Pergunnah of Kankjole.

ACT No. XXXVIII OF 1855.

PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

(Received the assent of the Governor General on the 22nd December 1855.)

AN ACT *to provide for the trial and punishment of rebellion and other offences committed within certain Districts in which Martial Law has lately been proclaimed.*

Preamble.

WHEREAS it is expedient to provide for the more speedy trial of persons charged with offences against the State and other heinous crimes committed within the District of Beerbhoom, and certain parts of the several Districts of Bhaugulpore and Moorshedabad respectively, and for the punishment of such crimes: It is enacted as follows :—

The Lieutenant-Governor of Bengal may issue a Commission for the trial of certain offences within the Districts named.

I. *Clause* 1.—It shall be lawful for the Lieutenant-Governor of Bengal from time to time as he may think fit to issue a special Commission for the trial of all persons owing allegiance to the British Government, either in consequence of their having been born within any part of the British Territories, or of their being resident therein and under the protection of the British Government, who shall be charged with having committed, either before or after the passing of this Act, within the District of Beerbhoom, or so much of the District of Bhaugulpore as lies on the right bank of the River Ganges, or so much of the District of Moorshedabad as lies on the right bank of the River Bhaugiruttee, the crime of treason or rebellion, or of opposing by force of arms the authority of the British Government, or any other crime against the State, or of the crime of murder, arson, robbery, or other heinous crime against person or property.

Clause 2.

PRICE 9 PIE.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said District or parts of Districts mentioned in this Section, and may there try any person for any of the said crimes committed within any part thereof.

Commissioner may hold a Court in any part of the said Districts.

II. It shall be lawful for the said Lieutenant-Governor by the said Commission to direct that any Court held under the Commission shall have power, without the attendance or futwa of a law officer, or the assistance of assessors, to pass upon any person convicted before the Court of any of the aforesaid crimes, any sentence warranted by Law for such crime, and that the judgments of such Court shall be final and conclusive, and that the said Court shall not be subordinate or bound to report its proceedings to the Sudder Court.

Lieutenant-Governor may vest Court with certain powers.

III. No sentence of death passed by such Court shall be carried into effect without the sanction of the Lieutenant-Governor of Bengal.

No sentence of death to be carried into effect by the Court without the sanction of the Lieutenant-Governor.

IV. If any such Commission be issued, a Magistrate or other Officer having power to commit for trial, may commit any person charged with any of the aforesaid crimes, within the District or parts of Districts described in Section I of this Act, to take his trial before a Court to be held under this Act.

Magistrate may commit persons for trial before a Court held under this Act.

V. And whereas it is necessary for the due maintenance of the just authority of Government, that persons convicted of the crime of treason or rebellion should be liable to capital punishment, it is further enacted as follows :—All persons who, after the promulgation of this Act, shall be guilty of treason or rebellion within the District or parts of Districts described in Section I of this Act, shall be liable, upon conviction either before the ordinary Criminal Courts of competent jurisdiction or before a Court held under the provisions of Act No. V of 1841 or of this Act, to the punishment of death or to the punishment of imprisonment with

Persons convicted of treason or rebellion within the Districts named, after the passing of this Act, liable to capital punishment, or imprisonment, &c.

with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years, and shall forfeit all their property and effects of every description.

Penalty for persons guilty of treason or rebellion within the District named before promulgation of this Act.

VI. All persons who, before the promulgation of this Act, shall have been guilty of the crime of treason or rebellion within the said District or parts of Districts shall, upon conviction before the ordinary Criminal Courts of competent jurisdiction, or before a Court held under the provisions of Act No. V of 1841 or of this Act, be liable to the punishment of imprisonment with labor and irons in transportation for life, or to imprisonment with hard labor, not commutable to fine, for any term not exceeding fourteen years.

Sentences of imprisonment with hard labor where to be carried into effect.

VII. Any person liable to imprisonment with hard labor under this Act, may be imprisoned and kept to hard labor in any part of the territories under the Government of the Lieutenant-Governor of Bengal which the said Lieutenant-Governor may direct, or in any part of the territories in the possession and under the Government of the East India Company, not being part of either of the Presidencies of Madras or Bombay, which the Lieutenant-Governor of Bengal, with the consent of the Governor General of India in Council, may direct.

Act not to apply to British-born subjects or their children.

VIII. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural born subjects born in Europe, or the children of such subjects.

Lieutenant-Governor may issue proclamation prohibiting the carrying or possession of arms.

IX. Whenever the Lieutenant-Governor shall deem it necessary for the public safety, it shall be lawful for him to declare, by proclamation, that, from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instrument used for warlike purposes, or any specified description of arms, or of such instruments as aforesaid, within the District or parts of Districts above mentioned, or any part thereof, to be specified in the proclamation.

X. After

X. After the day named in the proclamation, whoever shall carry or have in his possession any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding Fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument shall be confiscated.

Penalty for unlawful possession of arms, &c.

XI. It shall be lawful for a Magistrate by warrant to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms, or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Magistrate empowered to search houses, &c. and seize arms, &c.

XII. Nothing in Sections IX, X, and XI of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

Executive Government may grant exemption to certain persons.

XIII. The word "Magistrate" in this Act shall, unless there be something in the subject or context repugnant to such construction, include any person lawfully exercising the powers of a Magistrate and a Justice of the Peace; and any person hereby made punishable by a Justice of the Peace shall be punishable upon summary conviction.

Interpretation.

XIV. The Lieutenant-Governor of Bengal may commute any sentence of death passed under the provisions of Regulation X of 1804 of the Bengal Code, or of this Act, in respect of any crime committed within the District or parts of Districts described in Section I of this Act, either for imprisonment with hard labor and irons in transportation for life, or for imprisonment with hard labor for any term not exceeding fourteen years.

Lieutenant-Governor may commute sentences of death in certain cases.

XV. The provisions of this Act shall continue in force until the 31st day of December 1858.

Duration of Act.

INDEX

TO THE

ACTS PASSED BY THE LEGISLATIVE COUNCIL OF INDIA.

IN THE YEAR 1855.

	Act.	Section.	Clause.
	1855.		
ABOLITION OF CUSTOMS DUTY on the import of Cotton into the North Western Provinces of the Presidency of Bengal. [See Cotton.]			
ACTIONABLE WRONG. Compensation to be made to a family for loss occasioned by the death of a person caused by ——— . [See Compensation.]			
ADMINISTRATION. Executors, Administrators, or Representatives may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.	XII.	I.	
———————. Death of either party not to abate suit.	„	II.	
ADMINISTRATION OF ESTATES. [See Mortgage debts.]			
ADMINISTRATOR GENERAL. Designation of the Administrators General in the three Presidencies.	VIII.	I.	
———————. Their appointment, suspension, and removal.	„	II.	
———————. Continuance of existing incumbents....	„	III.	
——————— not to be deemed an officer of the Supreme Court.	„	IV.	
———————. Letters of administration granted to the Ecclesiastical Registrar of the Madras Supreme Court since Act II. 1850, and estates, &c., transferred to ———	„	V.	
——————— prohibited from holding the office of Ecclesiastical Registrar, or even any other office without sanction of Government. Two exceptions specified.	„	VI.	
——————— to give security.	„	VII.	
———————. No security to be required by Supreme Court on grant of letters to ———	„	VIII.	
——————— entitled to letters of administration, unless granted to next of kin of deceased, in preference also to creditor or friend.	„	IX.	
———————. Construction of words "next of kin." Ecclesiastical Registrar not to be entitled to administration by reason of his office.	„	X.	

	Act.	Section.	Clause.
	1855.		
ADMINISTRATOR GENERAL. When administration of estates of persons other than Mahomedans or Hindoos is to be by ———. Proviso as to assets under Act XX. 1841	VIII.	XI.	
———————. Upon death of any person leaving assets within local limits, the Court may, if assets are in danger, direct ———to apply for administration.	„	XII.	
———————. Section XX Act XIX. 1841 repealed prospectively..	„	XIII.	
———————. Upon death of any person leaving property within local limits, Court may, if property is in danger, enjoin———to collect and hold the same until right of succession or administration is ascertained. Rate of commission payable in such case.	„	XIV.	
——————— may be Official Trustee under Act XVII. 1843.	„	XV.	
———————. Probate to be granted to executor appearing in the course of proceedings taken by——— to obtain administration. Costs of proceedings taken by the Administrator General to be paid out of the estate	„	XVI.	
———————. If no executor or next of kin appear or give necessary security, letters of administration to be granted to———. Administration to effects of deceased Mahomedans or Hindoos not to be granted under Section XII unless required to protect the assets. Costs of unnecessary application. ...	„	XVII.	
——————— not precluded from applying for letters of administration in any case within one month after death of deceased.	„	XVIII.	
———————. Revocation of letters of administration granted to ——— after notice of a will &c.	„	XIX.	
———————. What payments made or acts done by ———prior to revocation of administration upon production of a will, shall be deemed valid.	„	XX.	
———————. Court may in certain cases recall Administrator General's administration and grant probate, &c., to executor or next of kin.	„	XXI.	
———————. Costs of obtaining administration, commission, &c., may, on revocation, be ordered by Court to be paid to the ——out of the assets, ...	„	XXII.	
———————. After one year from grant of administration, distribution of assets by—— - to be allowed against all claims of which he had no notice. Persons receiving payments liable to refund.....	„	XXIII.	
———————. Letters of administration to be granted to ——— in virtue of his office. Authority given by such letters. On death, &c., of———, estate, &c., to vest in successor.	„	XXIV.	

	Act.	Section.	Clause.
	1855.		
ADMINISTRATOR GENERAL to sue or be sued in his representative capacity by his name of office. Suit not to abate by death, &c.	VIII.	XXV.	
———————. Commission to be received by ———	„	XXVI.	
———————. Commission to cover expense &c. of collection and distribution, and how payable. Commission retained to be deemed a distribution.	„	XXVII.	
———————. Commission of the Administrators General of Madras and Bombay may be reduced and again raised.	„	XXVIII.	
——————— to defray expenses of establishment and all other charges not expressly provided for.	„	XXIX.	
———————. Commission or agency not to be charged by any executor or administrator other than the———. Specific bequest in favor of executors not affected.....	„	XXX.	
——————— to keep a separate account book for each estate, to be open to inspection, &c., on payment of fee, &c. ..	„	XXXI.	
———————. Government may make and alter rules and orders consistent with this Act for the custody of assets, for remittance of money, and for the guidance of———. Proviso as to rules now in force.	„	XXXII.	
———————. Publication of orders, &c.	„	XXXIII.	
——————— to furnish half-yearly Schedules, &c. which shall be filed and published.	„	XXXIV.	
———————. Government to appoint Auditors. .. .	„	XXXV.	
———————. Auditors to examine Schedules &c. and report to Government.	„	XXXVI.	
———————. Auditors empowered to summon witnesses and to call for books, &c. Penalty for non-attendance..	„	XXXVII.	
———————. Costs of preparing Schedule, &c. how to be paid.	„	XXXVIII.	
———————. Auditors to report specially to Government, if accounts appear not correct, &c.	„	XXXIX.	
———————. Proceedings upon such report, ...	„	XL.	
——————— . Costs of reference, &c. how to be defrayed.	„	XLI.	
———————. Orders of the Court to have same effect and to be executed in same manner as decretal orders.	„	XLII.	
———————. In what case———may grant certificate.	„	XLIII.	
——————— not bound to grant certificate unless satisfied of claimant's title, &c., ...	„	XLIV.	
———————. Certificate with receipt annexed to be a sufficient discharge, &c.	„	XLV.	
——————— not bound to take out administration on account of effects in respect of which he has granted certificate.	„	XLVI.	
———————. Fee for Certificate.	„	XLVII.	
———————. Penalty for false swearing, &c.	„	XLVIII.	

	Act.	Section.	Clause.
	1855.		
ADMINISTRATOR GENERAL. Penalty for trading.	VIII.	XLIX.	
——————. Accumulation of interest in the hands of the———at Bombay to be transferred to the East India Company.....	,,	L.	
——————. In the Madras and Bombay Presidencies, the proceeds of estates unclaimed for fifteen years to be transferred to the East India Company.....	,,	LI.	
——————. Mode of proceeding by claimant to recover principal money so transferred.	,,	LII.	
——————. Repeal of Section VI Regulation XV. 1806 of the Bengal Code, and Section V Regulation IV. 1809 of the Madras Code.	,,	LIII.	
——————. Zillah Judge in certain cases to take charge of property of a British subject dying within the Zillah, and to report to———...	,,	LIV.	
——————. Interpretation.	,,	LV.	
——————. Acts VII. 1840 and II. 1850 repealed prospectively.	,,	LVI.	
——————. Act not to apply to administration of estates of Soldiers or Sailors.	,,	LVII.	
——————. Commencement of Act.	,,	LVIII.	
APPEALS, REGULAR. Petition of appeal when and to what Court to be presented, and what to contain.	IX.	I.	1
——————. Time for presenting petition of appeal may be extended. To what Court and how application to be made. ..	,,	,,	2
——————. Notice to be given to respondent, and proclamation to issue. Service of notice, &c., ...	,,	II.	
——————. Of what original papers copies are to be deposited	,,	III.	1
——————. Party requiring any papers to be copied to give notice thereof.	,,	,,	2
——————. Party may give notice of papers to be copied in anticipation of appeal.	,,	,,	3
——————. Petition and record when to be certified to the Sudder Court.	,,	IV.	
——————. Notice to appellant to file objections.	,,	V.	
——————. Notice to respondent to file objections.	,,	VI.	1
——————. Time for respondent filing objections.	,,	,,	2
——————. In what case respondent may file a separate petition of appeal.	,,	,,	3
——————. Ground of objection to be filed therewith.....	,,	,,	4
——————. Record when to be deemed complete.	,,	VII.	1
——————. Notice of separate petition of appeal to be given.	,,	,,	2
——————. Time for appellant filing objections. Record when to be deemed complete.	,,	,,	3
——————. Hearing of appeals.	,,	,,	4
——————. In what case respondent not to present separate petition of appeal.	,,	VIII.	

	Act.	Section.	Clause.
	1855.		
APPEALS, REGULAR. Objections to be distinctly stated, consecutively numbered, and written on stamped paper.	IX.	IX.	1
——————. Sudder Court may extend the time for filing objections.	„	„	2
——— ——. By leave of the Sudder Court, grounds of objection may be amended. The parties, but not the Court, to be confined to the objections filed.	„	X.	
——————. Sudder Court may fix a day to hear and determine objections to the appeal before hearing the appeal. ..	„	XI.	1
——————. Appeal involving objections of law only may be heard and decided at any fixed time without regard to its place in the list of appeals....	„	„	2
——————. Appeal involving objections of law and fact how to be heard.	„	„	3
——————. Time and manner of presenting petitions of appeal in *formâ pauperis*....	„	XII.	1
——————. Form of petition.	„	„	2
——————. Notice and proclamation.	„	„	3
——————. Procedure on such appeal. When Sudder Court is to determine whether appeal shall be in *formâ pauperis*.	„	„	4
——————. Notice to respondent to file objections to pauper appeals. Rules of Sudder Court as to pauper appeals to continue in force, except where inconsistent with this Act.	„	„	5
——————. What order may be made upon refusal to allow an appeal in *formâ pauperis*....	„	„	6
——————. Appellant how to proceed upon such order....	„	„	7
——————. Notice of order to be given to respondent. Subsequent procedure thereon.	„	„	8
——————. In pauper appeals, appellant's objections may be on plain paper.	„	„	9
——————. All subsequent objections of either party may also be on plain paper.	„	XIII.	
——————. Act not to apply to —— preferred before 1st May 1855.	„	XIV.	
APPLICATION FOR ENFORCEMENT OF JUDGMENTS under Act XXXIII. 1852. [See Judgments.]			
ARREST UPON MESNE PROCESS. No ——— without order of Court or Judge....	VII	I.	
——————. No order for arrest to be made without affidavit of debt or damage to the amount of two hundred Rupees, and probable cause for believing—— 1. That defendant is concealing himself to avoid service of process, or is about to abscond, &c. 2. That he is removing his property to avoid process. 3. That he has disposed or means to dispose of his property to defraud his creditors.	„	II.	

	Act.	Section.	Clause.
	1855.		
ARREST UPON MESNE PROCESS. Order for arrest may be made, &c in any stage of the cause before final judgment, and against one or more of several defendants.	VII.	III.	
——————————. Before making order, Court may examine Plaintiff or other person.	„	IV.	
——————————. Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest.	„	V.	
——————————. Person arrested may apply to Court or Judge for his discharge, and be discharged if Plaintiff is guilty of delay after arrest. Judge's order may be discharged or varied by Court....	„	VI.	
——————————. If motion for discharge be made upon affidavit, Plaintiff may oppose it by further affidavits. ..	„	VII.	
——————————. At the hearing of the motion, Court may compel attendance of the parties or witnesses, and of person in custody on civil process....	„	VIII.	
——————————. Persons now in custody on mesne process, how entitled to their discharge.	„	IX.	
——————————. Subsistence money to be deposited before arrest on mesne or final process or by attachment; amount and application thereof.	„	X.	1
——————————. Sheriff to give Plaintiff notice of arrest.	„	„	2
——————————. Further deposit of subsistence money to be made after arrest and during detainer. Receipt to be given for deposit....	„	„	3
——————————. Rate of deposit may be varied by Court out of which writ issues.	„	„	4
——————————. Deposit must be made before arrest. Person arrested to be discharged if subsequent deposit not duly made.	„	„	5
——————————. Such discharge of a prisoner in execution not to affect his liability.	„	„	6
——————————. Provisions of these Clauses to whom applicable.	„	„	7
——————————. Deposit to be employed for subsistence of prisoner.	„	„	8
——————————. Amount spent in subsistence of prisoner detained on mesne process to be costs in the suit. ...	„	„	9
——————————. Amount spent in subsistence of prisoner detained in execution to be added to the judgment.	„	„	10
——————————. Amount spent in subsistence of person detained under attachment shall be deemed part of the demand.	„	„	11
——————————. Return of unspent deposit money...	„	„	12
——————————. Effect of order for discharge of prisoner	„	XI.	
——————————. Keeper of prison, &c., to report to Court the name of any prisoner unable to maintain himself, &c. Proceedings thereupon. Service of rule, &c., by Sheriff.....	„	XII.	

	Act.	Section.	Clause.
	1855.		
ARREST UPON MESNE PROCESS. Order under this Act to be sufficient justification to Sheriff, &c..	VII.	XIII.	
——————. Interpretation.....	„	XIV.	
——————. Act not to affect rules of Court not inconsistent herewith, or provisions of Insolvent Debtors Act.	„	XV.	
——————. Equivalents for dollars and cents in the application of the Act to the Straits Settlement..	„	XVI.	
ASSAM COMPANY. Act XIV. 1854 repealed..	IV.	I.	
—————— incorporated for twenty years.	„	II.	
—————— empowered to hold land for the cultivation of the Tea plant and other products....	„	III.	
——————. Capital of the ——.	„	IV.	
—————— authorized to raise money by loan to the extent of one-fifth of its capital....	„	V.	
——————. All property vested in the——in its corporate capacity..	„	VI.	
—————— empowered to make Bye-laws. Former Bye-laws to continue in force.....	„	VII.	
——————. Time and mode of holding general and extraordinary meetings, &c. Number of votes....	„	VIII.	
——————. Account books and balance sheet to be produced at general meetings. Publication of balance sheet, &c.. ..	„	IX.	
——————. Certification and transfer of shares....	„	X.	
——————. Shares to be deemed personal property.	„	XI.	
——————. Bye-laws to direct the mode of payment by instalments of unpaid shares..	„	XII.	
——————. Bye-laws may direct interest to be charged on unpaid instalments or forfeiture of shares.	„	XIII.	
——————. Contracts, &c., made prior to this Act to be binding.	„	XIV.	
——————. Copies of the original deed of association. and of all rules, &c, to be kept at the Company's Office, and in the Office of the Prothonotary of the Supreme Court; examined copies thereof to be evidence....	„	XV.	
——————. Names of Directors and Officers to be entered in a book at the office, and to be enrolled from time to time in the Prothonotary's Office..	„	XVI.	
——————. Names of Share-holders, and all transfers of shares, to be registered..	„	XVII.	
——————. Company to sue and be sued in its corporate name and process to be had only against the corporate stock.	„	XVIII.	
——————. Service of process, &c., on Secretary, sufficient. ..	„	XIX.	
——————. Duration of Act...	„	XX.	
BADGES. Section VI Chapter III Regulation XXIII. 1827 of the Bombay Code, repealed..	XVI.	I.	
—————— worn by persons not servants of Government to bear the employer's name, &c.,..	„	II.	
——————. Penalty....	„	III.	

	Act.	Section.	Clause
	1855.		
BANKS OF BENGAL, MADRAS, AND BOMBAY empowered to transact certain business in respect of Government securities and shares in the said Banks.	XXVII.	I.	
BANKS, SAVINGS——empowered in certain cases to pay, without probate, &c., money belonging to the estate of a deceased depositor.	XXVI.	I.	
——————. Security for due administration.	„	II.	
——————. Power to administer oath, &c. Penalty for false testimony.	„	III.	
——————. Administrator General not to grant certificate under Section XLIII Act VIII. 1855 in respect of money deposited in ———.	„	IV.	
——————. Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.	„	V.	
BAZARS. [See Military Bazars.]			
BOUNDARY MARKS. *(Fort St. George.)* Collectors &c. to fix boundaries of fields &c., and to require owners or occupants to form and maintain ———	XX.	I.	
——————. Notices for the purpose when and how to be served.	„	II.	
——————. In default of compliance, Officer may order erection or repair of necessary marks at the expense of the owners or occupants....	„	III.	
——————. In the case of unoccupied fields, cost to be charged to Government.	„	IV.	
——————. Penalty for erasing, &c., marks set up by an Officer of Government; a moiety of which may be awarded to informer. Costs how to be recovered when offender is unknown or unable to pay the fine..	„	V.	
——————. Party objecting may complain to Collector, &c., who shall dispose of the same according to Regulation XII 1816.	„	VI.	
——————. Penalty for refusing or neglecting to attend when summoned.	„	VII.	
——————. Proceedings under Sections III, V, and VII to be recorded in writing and appealable to the superior Revenue authorities.	„	VIII.	
BRITISH VESSELS to carry Saltpetre only to London or Liverpool. [See Saltpetre.]			
COIMBATORE. Session Judge of ——to hold Sessions at Ootacamund. [See Ootacamund.]			
COMPENSATION TO FAMILIES FOR LOSS OCCASIONED BY THE DEATH OF A PERSON CAUSED BY ACTIONABLE WRONG.			
——————. Liability to actions for ———.	XIII.	I.	

	Act.	Section.	Clause.
	1855.		
COMPENSATION. Not more than one action to be brought: to be commenced within 12 months. Claim for loss to the estate may be added.	XIII.	II.	
———. Plaintiff to give full particulars of the cause of action, &c.	„	III.	
———. Interpretation.....	„	IV.	
CONTRABAND SALT—Particulars to be recorded by officer on receipt of information as to unfawful manufacture of salt, &c.. ..	XXXVI.	I.	
———. Officer thereupon may summon Police and proceed to search house for ———.	„	II.	
———. Officer may break open doors.	„	III.	
———. Rules regarding forcible entry..	„	IV.	
———. What to be deemed ———...	„	V	
———. Penalty if Police Officer refuses or neglects to attend or aid in search or seizure	„	VI.	
———. Penalty for vexatious search and for giving false information.	„	VII.	
———. Every case of search to be reported to superior Officers.	„	VIII.	
———. What to be deemed a manufacture of salt.....	„	IX.	
CONVICTS. Transportation of European——— [See Penal Servitude.]			
COPPER CURRENCY—Repeal of Sections I, II, and V of Act VI. 1847, so far as they relate to copper pice, double pice, and pies coined according to Act XXII. 1844, or Act XXII. 1835; and extension of so much of Sections I, II, and IV of Act XXII. 1844 as is now in force to the Straits Settlement. ..	XVII.	I.	
———. Pice, double pice, pies, and half pice made legal tender for Dollars...., ...	„	II.	
———. Copper coins to be legal tender only for fractional parts of a rupee or dollar..	„	III.	
COTTON. Customs duties on the import of —— into the North Western Provinces, abolished....	XXXV.	I	
———. Also drawback of the land-frontier duty paid upon—— Wool from 1st July 1856.	„	II.	
CRIMINAL COURT AT OOTACAMUND. [See Ootacamund.]			
CUSTOMS and Land Revenue Officers empowered to search houses and other enclosed places for contraband salt in the North Western Provinces. [See Contraband Salt.]			
——— DUTY ON THE IMPORT OF COTTON. Abolition of ——— into the North Western Provinces. [See Cotton.]			
DAMUN-I-KOH AND OTHER DISTRICTS. Certain Districts removed from the operation of the general Regulations of the Bengal Code.	XXXVII.	I.	

	Act.	Section.	Clause.
	1855.		
DAMUN-I-KOH AND OTHER DISTRICTS to be under the superintendence of officers subject to the control of the Lieutenant Governor of Bengal...	XXXVII.	I.	2
——————. Administration of justice and collection of Revenue vested in such officers. Proviso as to suits exceeding the value of 1,000 rupees and to collection of permanently settled land revenue.	"	II.	
——————. Mode of administering Civil and Criminal justice.	"	III.	
——————. Decisions to be final. Proviso as to sentences of death, appeals, &c., ...	"	IV.	1
——————. Procedure on references to the Sudder Court.	"	"	2
——————. Saving of laws relating to European British subjects.	"	V.	
——————. Act when to take effect. ..	"	VI.	
DEFECTIVE TITLES, (improvements made by holders under———) [See mesne profits.]			
DEPOSITS IN GOVERNMENT SAVINGS BANKS. Payment of——— to the representatives of deceased depositors. [See Savings Banks.]			
DESERTION FROM THE INDIAN NAVY. [See Indian Navy.]			
DISTRICT MOONSIFFS. Certain parts of Regulation VI. 1816 of the Madras Code repealed.	XIX.	I.	
——————. Clause 1 Section XII Regulation VI. 1816 modified.	"	II.	
——————— empowered to require security from defendants, &c.	"	III.	
——————— to exercise same powers as subordinate Zillah Courts for enforcing the attendance of witnesses.....	"	IV.	
——————. Penalty for resisting process...	"	V.	
——————. Clauses 2, 3, and 4 Section X Regulation XV. 1816 of the Madras Code extended to the Courts of——.	"	VI.	
——————. Also part of Clause 2 Section VI Regulation XV. 1816 of the same Code.	"	VII	
——————. All orders of——under this Act, open to appeal.	"	VIII.	
DISTRICTS IN WHICH MARTIAL LAW HAS LATELY BEEN PROCLAIMED. The Lieutenant Governor of Bengal may issue a commission for the trial and punishment of rebellion and other offences committed within the———. [See Rebellion.]			
DRAWBACK of the land-frontier duty paid upon Cotton-Wool discontinued. [See Cotton.]			

	Act.	Section.	Clause.
DUTY (CUSTOMS) on the import of Cotton into the North Western Provinces abolished. [See Cotton.]	1855.		
EMBANKMENTS Regulations repealed.	XXXII.	I.	
———. What is a public embankment within this Act.	„	II.	
———. Who to have superintendence of public ——..	„	III	
———. Superintendent may take charge of any embankment which connects public———	„	IV.	1
———. And may remove private embankment endangering a public embankment.	„	„	2
———. And may change the line of any public embankment or make a new embankment.....	„	„	3
———. And may enlarge embankment, &c.	„	„	4
———. Before taking charge of private———&c., Superintendent to give notice to Collector who shall issue a proclamation	„	V.	1
———. Publication of proclamation.	„	„	2
———. Procedure on appearance of parties.... ..	„	„	3
———. Appeal from orders of Superintendent and Commissioner of Revenue.	„	„	4
———. Orders not open to revision by Civil Court. ...	„	„	5
———. Maintenance of private———taken charge of by the Officers of Government.	„	VI.	
———. Compensation for damages sustained under this Act.	„	VII.	1
———. Appointment of arbitrators.	„	„	2
———. Arbitrator how to be chosen when there are several claimants for compensation.	„	„	3
———. Appointment of a third arbitrator.	„	„	4
———. Arbitrator refusing or becoming incapable to act, &c.	„	„	5
———. Collector empowered to enforce attendance of arbitrators.	„	„	6
———. In default of award within a specified period, fresh arbitrators may be chosen.	„	„	7
———. Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.	„	„	8
———. Award of the arbitrators.	„	„	9
———. Payment of compensation may, in certain cases, be deferred.	„	„	10
———. Reversal or alteration of award.	„	„	11
———. Suits and proceedings against Government, except suits for reversal of awards, to be dismissed with costs, but award may be recovered from the party who has received it without a just title thereto.....	„	„	12
———. Estimated value of benefit to be set off against the compensation to be awarded.	„	„	13
———. The provisions of this Section not to apply to cases of huts, trees, or crops.	„	„	14

	Act.	Section.	Clause.
	1855.		
EMBANKMENTS. Application by landholder to have a sluice made in a public embankment..	XXXII.	VIII.	1
———. Officer in immediate charge of———to report on the proposed work.	„	„	2
———. Upon the applicant engaging to defray the cost, Collector may issue certificate.	„	„	3
———. Opening of sluices.	„	IX.	
———. Officer in immediate charge of———may authorize temporary water-course, &c., to be made...	„	X.	
———. Specification and estimates for maintaining or improving———kept up at the expense of Zemindars to be prepared annually, &c.	„	XI.	1
———. Accounts to be forwarded to Collector, who may recover the amount as arrears of Government Revenue.	„	„	2
———. Superintendent to report to Collector as to removal of buildings, &c.	„	XII.	1
———. Collector to give notice to claimants, ...	„	„	2
———. Selection of Jury...	„	„	3
———. Proceedings of Jury.	„	„	4
———. Award of Jury.	„	„	5
———. After award, Collector to give notice of payment, and of removal of buildings, &c. in 30 days.	„	XIII.	
———. Collector may remove buildings, &c. at the cost of the owners, in case they neglect to do so themselves.. ..	„	XIV.	
———. Penalty for obstructing officer or person in discharge of duty.	„	XV.	
———. Penalty for wilful damage to———by cutting, &c.	„	XVI.	
———. Penalty for other wilful damage.	„	XVII.	
———. Jurisdiction of Deputy or Assistant Magistrate under this Act.	„	XVIII.	
———. Provision of Section XIII Regulation XX. 1817, extended to this Act.	„	XIX.	
———. Right of appeal.	„	XX.	
———. Interpretation.	„	XXI.	
EMIGRATION. Repeal of Act XIV. 1839, as respects ——— to St. Lucia and Grenada..	XXXI.	I.	
———. Natives may emigrate from Calcutta, Madras, and Bombay to St. Lucia and Grenada.	„	II.	
———. Appointment and duties of ——— Agents.	„	III.	
———. Protector of Emigrants.	„	IV.	
———. Emigrant ships to be licensed. Fee for license. Master of ship to give bond. Penalty if ship be not licensed. ..	„	V.	
———. Master of vessel not to receive on board any emigrant without a certificate. Certificate what to state, &c.	„	VI.	
———. Before Port clearance Master of Ship to obtain certificate from ——— Agent to the effect specified... ...	„	VII.	
———. Probable lengths of voyage, and time of sailing. ..	„	VIII.	
———. Master to deliver list to ——— Agent.	„	IX.	

	Act.	Section.	Clause.
	1855.		
EMIGRATION. Penalty for clearing ship without complying with rules.	XXXI.	X.	
———. Penalty for taking on board, after clearance, emigrants not entered in the list.	„	XI.	
———. Penalty for fraudulent acts, whereby certificate becomes inapplicable to the altered state of the vessel.	„	XII.	
———. Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.	„	XIII.	
———. Custom House Officers and Pilots at Calcutta to countersign papers, to muster crew and passengers and emigrants, and to make a report of emigrants on board, &c. Penalty.	„	XIV.	
——— ——. Punishment for forgery of document required by this Act.	„	XV.	
———. Penalties how to be enforced.	„	XVI.	
———. Act when to take effect.	„	XVII.	
———. Appointment of ——— Agent.	„	Schedule.	Article.
———. Remuneration.	„	„	1
———. Duty.	„	„	2
———. Number of Passengers.	„	„	3
———. Children.	„	„	4
———. Provisions.	„	„	5
———. Survey of ship.	„	„	6
———. Master to furnish provisions.	„	„	7
——— Copies of Rules.	„	„	8
———. List of emigrants.	„	„	9
———. Rules not applicable to Ships of war. .. .	„	„	10
			11
ENFORCEMENT OF JUDGMENTS under Act No. XXXIII. 1852..... [See Judgments.]			
EUROPEAN CONVICTS. Transportation of——— .. . . [See Penal Servitude.]			
EVIDENCE. (Further improvement of the Law of ———.)			
———. Act X. 1835 repealed.	II.	I.	
———. Judicial notice to be taken of all Acts and Regulations..	„	II.	
———. Also of all public Acts of Parliament. What shall be *primâ facie* proof of private Acts..	„	III.	
———. Judicial notice to be taken by Court of its own officers, &c.	„	IV.	
———. Also of the names, titles, and authorities of certain persons.	„	V.	
———. And of divisions of time, place, &c.	„	VI.	
———. Proof of Government Gazette.	„	VII.	
———. Proclamations, Acts of State, &c., may be proved by production of the Gazette in which they appear, and to be *primâ facie* proof of fact.	„	VIII.	
———. Recital in Act of a fact of a public nature to be *primâ facie* proof thereof.	„	IX.	

	Act.	Section.	Clause.
	1855.		
EVIDENCE. Gazette or Newspaper containing advertizement purporting to be published by authority, to be *primâ facie* ——— of such authority....	II.	X.	
———. Books, Maps, and Charts to be ——— in matters of public history, &c.	„	XI.	
———. What Books shall be ———of Foreign law.	„	XII.	
———. Government or public Maps, not made for the purpose of any litigated question, to be *primâ facie* proof.	„	XIII.	
———. Following persons incompetent to testify :— Children under 7 years of age.	„	XIV.	1
Insane persons, who must not be summoned without leave of Court.	„	„	2
———. Children and persons of defective religious belief to testify on simple affirmation.	„	XV.	
———. The provisions in the foregoing Section as to witnesses to apply to affidavits, &c.	„	XVI.	
———. Punishment for giving false ———	„	XVII.	
———. No incompetency from interest in suit.	„	XVIII.	
———. Party to suit may be examined as a witness.	„	XIX.	
——— of husband or wife for or against each other.	„	XX.	
———. Witness not bound to produce any document relating to State affairs.	„	XXI.	
———. Party to suit not bound to produce certain documents, unless he offers himself as a witness.	„	XXII.	
———. Witness summoned to produce a document must bring it into Court. Mode of determining his objection to produce it.	„	XXIII.	
———. Professional communications.	„	XXIV.	
———. Persons present in Court may be required to give ——— or produce a document, though not summoned.	„	XXV.	
———. Person summoned to produce a document not bound to attend personally.	„	XXVI.	
———. Rules of ——— in Supreme Courts on Ecclesiastical and Admiralty sides to be the same as on the Plea side.	„	XXVII.	
———. Except in cases of treason, ——— of one witness to be sufficient proof. Proviso as to testimony of an accomplice or a single witness in a case of perjury.	„	XXVIII.	
———. Dying declarations when admissible.	„	XXIX.	
———. Party allowed to cross-examine and discredit his own witness.	„	XXX.	
———. Former statement admissible to corroborate testimony of a witness.	„	XXXI.	
———. Witness bound to answer criminating questions.	„	XXXII.	
———. Witness may be examined as to conviction for felony or misdemeanor.	„	XXXIII.	
———. Cross examination as to previous written statements.....	„	XXXIV.	

	Act.	Section.	Clause.
	1855.		
EVIDENCE. Copy of a document made by a copying machine to be deemed correct.	II.	XXXV.	
———. Admission of secondary ——— where original document is out of reach of process.	„	XXXVI.	
———. When attested document may be proved as if unattested.	„	XXXVII.	
———. Admission to be *primâ facie* proof of an attested document.	„	XXXVIII.	
———. Entry made against interest or in course of business when admissible in life-time of person making it.	„	XXXIX.	
———. Entry in course of business when admissible for purpose of identification.	„	XL.	
———. Receipt when ——— against person other than the giver.	„	XLI.	
———. Receipt of agent.	„	XLII.	
———. Books kept in course of business or in a public office admissible as corroborative ———...	„	XLIII.	
———. Nature of documents admissible as corroborative ———.	„	XLIV.	
———. Refreshing memory of witness.	„	XLV.	
———. Court may permit a copy of document to be used to refresh memory.	„	XLVI.	
———. Declarations of illegitimate persons, &c., admissible in questions of pedigree.	„	XLVII.	
———. Comparison of handwriting, &c., if disputed.	„	XLVIII.	
———. Proof of power of Attorney.	„	XLIX.	
———. Proof of dispatch of letter by Letter book.	„	L.	
———. What to be *primâ facie* proof of receipt of letter. ..	„	LI.	
———. Part of Section VI Act XV. 1852 repealed...	„	LII.	
———. Section XVI Act VI. 1854 extended...	„	LIII.	
———. Section XVII ditto ditto ditto.	„	LIV.	
———. Section XXXIII ditto ditto ditto.	„	LV.	
———. Proof of official documents.	„	LVI.	
———. No new trial for improper admission or rejection of———	„	LVII.	
———. Act not to render inadmissible ——— now admitted in the Company's Courts.	„	LVIII.	
EVIDENCE IN THE CIVIL COURTS OF THE PRESIDENCIES OF FORT ST. GEORGE AND BOMBAY. [See Witnesses.]			
EXECUTION. [See Process of Execution.]			
———————of writs. [See Writs of Execution.]			
EXECUTORS, Administrators, or Representatives may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person. .... [See Administration.]			
EXPORTATION OF SALTPETRE. Prohibition of the ——— except in British Vessels bound to London or Liverpool. [See Saltpetre.]			

	Act.	Section.	Clause.
	1855.		
FORMA PAUPERIS. Appeals in ———. [See Appeals.]			
GENERAL LAWS AND REGULATIONS. Damun-i-koh and other districts inhabited by Sonthals and others removed from the———. [See Damun-i-koh.]			
GOVERNMENT SAVINGS BANKS. [See Savings Banks.]			
GOVERNMENT SECURITIES AND SHARES. Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of ——— in those Banks. [See Banks.]			
GOVERNOR GENERAL alone, during his absence from Council, may exercise the powers of Governor General in Council.	I.	I.	
———. Commencement and duration of Act.	„	II.	
GRENADA. Emigration of Native Laborers to———. [See Emigration.]			
HARBOUR REGULATIONS. [See Ports and Port-dues.]			
IMPORTATION OF COTTON. Abolition of Customs duty on the——— into the North Western Provinces. [See Cotton.]			
IMPROVEMENTS MADE BY HOLDERS UNDER DEFECTIVE TITLES. [See Mesne Profits.]			
INDIAN NAVY. (Better prevention of desertion from the ———)			
———. Article 4 of Bombay Rule, Ordinance, and Regulation of 11th July 1820 repealed as regards Seamen of the ———.	III.	I.	
———. Penalty for instigating desertion from the ——— or for concealing deserter.....	„	II.	
———. Penalty for Master in certain cases, if a deserter be concealed on board his ship.	„	III.	
———. Jurisdiction.	„	IV.	
———. Conviction to be quashed on merits only; form of conviction &c.	„	V.	
———. Saving of proceedings under Act XIV. 1849.. ..	„	VI.	
———. Commander-in-chief of the ——— &c. may issue warrants for apprehension of deserters.	„	VII.	
———. Warrant to whom to be addressed and by whom to be executed.	„	VIII.	
———. Persons apprehended how to be dealt with, &c. ..	„	IX.	
INTEREST ON MONEY, &c. (Rate of———.) [See Usury Laws.]			

	Act.	Section.	Clause.
	1855.		
JOINT POLICE OFFICERS. Governor in Council of Bombay may appoint ——— to districts....	XV.	I.	
———. And exempt them from the provisions of Sections II and III Regulation III. 1833 of the Bombay Regulations.	„	II.	
JUDGMENTS. Court to which application to enforce a ——of another Court is made, not to enquire into the validity of the ———. Proviso..	XXXIV.	I.	
———. Such Court may, in certain cases, stay execution of———	„	II.	
———. Court may, in such cases, take security, &c., from judgment-debtor.	„	III.	
———. Order of Court pronouncing ——— to be binding upon Court enforcing the same.	„	IV.	
———. Defendant discharged under this Act liable to be taken in execution of the ———.	„	V.	
———. Act to be taken as part of Act XXXIII. 1852. ...	„	VI.	
LAND REVENUE AND CUSTOMS OFFICERS empowered to search houses and other enclosed places for contraband Salt in the North Western Provinces. - - - - - - - - [See Contraband Salt.]			
LIEUTENANT GOVERNOR OF BENGAL to have control over officers appointed under Act XXXVII. 1855. - - - - - [See Damun-i-koh and other districts.]			
——— ——— may issue a commission for the trial of certain offences committed within the districts of Beerbhoom, and certain parts of the districts of Bhaugulpore and Moorshedabad. - - - - - - - - - - [See Rebellion and other offences.]			
LIVERPOOL. Saltpetre to be exported only in British Vessels bound to London or ———. - - - - - - - - - - [See Saltpetre.]			
LONDON. Saltpetre to be exported only in British Vessels bound to ——— or Liverpool. - - - - - - - - - - [See Saltpetre.]			
Loss occasioned to a family by the death of a person caused by actionable wrong - - - - - - - - - - [See Compensation.]			
MESNE PROCESS. [See Arrest on Mesne Process.]			
MESNE PROFITS No person to be chargeable with rent *bonâ fide* paid to a holder under defective title. - - - - - -	XI.	I.	
———. Value of improvements made by *bonâ fide* holders under defective titles secured to them, and how to be estimated. - - - - - - - - - - - -	„	II.	
———. Act to apply only to cases governed by English Law. - - - - - - - - - - - - -	„	III.	

	Act.	Section.	Clause.
MILITARY BAZARS. Debt, &c, contracted within the limits of any Military Cantonment, not recoverable under Clause 3 Section XXI Regulation VII. 1832 of Madras Code, unless person suing have been registered as a Military Bazar-man. - - - -	1855. XIV.	I.	
MINORS. (*Fort St. George.*) General control and superintendence of the education of male —— vested in Collectors of Revenue. -	XXI.	I.	
——. Collectors empowered to choose the residence of male ——, to direct where they are to be educated, and to make provision for their care and maintenance. - - -	„	II.	
——. Or in certain cases to cause such ——— to be educated by a private tutor. - - - - - - - -	„	III.	
——. Charges and expenses incurred under this Act, to be paid out of the profits of the ward's estate, - - - - -	„	IV.	
——. Court of Wards empowered to remove guardians for disobedience to orders passed by a Collector under this Act. -	„	V.	
——. Liability of guardian after removal continued. Powers and responsibilities of new guardian. .. - - -	„	VI.	
——. The right to the custody of the persons of male ———vested in guardians duly appointed, or, failing them, in Collectors.-	„	VII.	
——. The foregoing Sections applicable also to the younger brothers of wards. - - - - - - - - -	„	VIII.	
——. Penalty for abetting marriage of ——— without leave of Collector. - - - - - - - - - -	„	IX.	
——. Appeal from the orders of a Collector to lie to Court of Wards. - - - - - - - - - -	„	X.	
MOONSIFFS. [See District Moonsiffs]			
MORTGAGE DEBTS on property descending or devised, how to be discharged. — Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased, and as to claims made prior to this Act.	XXIII.	I.	
NAVY. Desertion from the Indian——. [See Indian Navy.]			
NORTH WESTERN PROVINCES. Abolition of Customs duty on the import of Cotton into the——. [See Cotton.]			
——————. Search for Contraband Salt in the——. [See Contraband Salt.]			
OFFICERS of Customs and Land Revenue empowered to search houses and other enclosed places for contraband Salt in the North Western Provinces. [See Contraband Salt.]			
——— to be specially appointed for the Damun-i-koh and other districts inhabited by Sonthals and others. [See Damun-i-koh.]			

	Act.	Section.	Clause.
	1855.		
OOTACAMUND. Session Judge of Coimbatore empowered to hold Sessions at ——— on the establishment of a subordinate Criminal Court constituted according to Regulation VIII. 1827 of the Madras Code.....	XXV.	I.	
———. Principal Sudder Ameen to give notice of commitment to Session Judge.	„	II.	
———. Principal Sudder Ameen vested with certain criminal powers.	„	III.	
PARDONS, REPRIEVES, AND REMISSIONS OF PUNISHMENT. Executive Governments empowered to grant ——— awarded by the Supreme or any other Court or Officer.	XVIII.	I.	
———. Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant Governors, &c; in which case the power of granting ———, so far as it is excepted from the authority of the Lieutenant Governor, may be exercised by the Governor General in Council.	„	II.	
———. Act not to interfere with the prerogative of the Crown to grant ———.	„	III.	
PENAL SERVITUDE. No European or American to be sentenced to transportation.	XXIV.	I.	
———. Terms of ——— instead of the present terms of transportation.	„	II.	
———. Discretion of Courts as to alternative punishments not to be affected.	„	III.	
———. Effect of commutation of sentence of death to sentence of ———.	„	IV.	
———. Executive Government may direct Europeans or Americans under sentence of transportation to be kept in ———. Term of ——— in such case.....	„	V	
———. Persons under sentence of ——— where to be sent and how to be dealt with Intermediate imprisonment.	„	VI.	
———. All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labor, to be applicable for the purposes of this Act.	„	VII.	
———. Removal of European or American convicts, under sentence of imprisonment, from one prison to another. ..	„	VIII.	
———. Governor General in Council may grant a license to be at large to any convict under sentence of ———. .	„	IX.	
———. Holder of such license not to be imprisoned, &c.	„	X.	
———. If license be revoked, the convict may be apprehended and committed to prison.	„	XI.	
———. Penalty for breach of condition of the license..	„	XII.	
———. Act not to affect the provisions of certain English Statutes.	„	XIII.	

	Act.	Section.	Clause.
	1855.		
PENAL SERTITUDE. What to be deemed proof that a person is a European or an American.	XXIV.	XIV.	
——————. Interpretation..	„	XV.	
——————. Commencement of Act.	„	XVI.	
PORTS AND PORT-DUES. Repeal of part of Act I of 1852.	XXII.	I.	
——————. Operations of certain laws to cease in Ports, &c., declared subject to this Act.	„	II.	
——————. To what places Act applies.	„	III.	
——————. Limits of such places how to be fixed.	„	IV.	
——————. Limits how to be altered.	„	V.	
——————. Appointment of Conservator.	„	VI.	
——————. Local Government empowered to make Port-rules for	„	VII	
Entering or leaving Port.	„	„	1
Berths of Vessels.	„	„	2
Striking Yards, &c..... ..	„	„	3
Removal of anchors, &c....	„	„	4
Taking in or discharging ballast. ..	„	„	5
Keeping free passage...	„	„	6
Regulating the anchoring.	„	„	7
Moving and warping.	„	„	8
Use of mooring buoys.....	„	„	9
Rates for use of mooring buoys.....	„	„	10
Cargo Boats, &c.	„	„	11
Fires and lights.	„	„	12
Signal lights.	„	„	13
——————. Publication of Orders of Local Government.	„	VIII.	
——————. Penalty for disobedience to rules.	„	IX.	
——————. Conservator empowered to give directions for carrying into effect any Port-rule in force in his Port.	„	X.	
——————. Penalties for disobedience to orders of Conservator, who may cause the expenses caused thereby to be paid by the person offending. Service of written notice.	„	XI.	
——————. (*Special Rule.*) Vessels not to be moved (except in cases of urgent necessity) without having a Pilot, &c., or the permission of the Harbour Master. Penalty.	„	XII.	
——————. Master to permit warps to be made fast to his vessel by Conservator. Penalty for refusal.	„	XIII.	
——————. Penalty for leaving out hawser, &c., after sunset.	„	XIV.	
——————. Conservator may, in case of necessity, cut ropes, &c.	„	XV.	
——————. Penalties for causing obstruction or public nuisance.	„	XVI.	
——————. Any floating timber, &c., or any obstruction on shore within the limits of the Port, to be removed at the expense of owner.	„	XVII.	

	Act.	Section.	Clause.
	1855.		
PORTS AND PORT-DUES. Expenses of removal may be recovered as a penalty; and the timber, &c., may be sold. Proceeds how to be dealt with.	XXII.	XVIII.	
——————. Obstructions lawfully made how to be removed; compensation how to be determined.	„	XIX.	
——————. Penalty for injuring buoys, &c.	„	XX	
——————. Notice to be given to Conservator, if vessel gets foul of Government moorings. Penalty.	„	XXI.	
—————— Penalty for wilfully loosening a vessel from its moorings.	„	XXII.	
——————. Conservator may raise any wreck, &c., impeding navigation within the Port. Expense how recoverable.	„	XXIII.	
——————. Penalty for improperly discharging ballast, &c.	„	XXIV.	
——————. Penalty for graving, &c., vessel within prohibited limits.	„	XXV.	
——————. Penalty for boiling pitch, &c., on board a vessel within prohibited limits.	„	XXVI.	
——————. Penalty for drawing spirits by candle-light, &c.	„	XXVII.	
——————. (*Special Rule*). Vessels above 200 tons to be provided with a force pump, &c. Penalty.	„	XXVIII.	
——————. Vessels not to have powder, &c., exceeding 50 lbs. on board within certain limits. Government to appoint place of deposit for powder.	„	XXIX.	
——————. Government to fix the time and manner of landing and shipping powder, &c.	„	XXX.	
——————. Master to make declaration as to powder, &c. Penalty for making false declaration.	„	XXXI.	
——————. Officer to give receipt and to account for powder deposited.	„	XXXII.	
——————. If by stress of weather powder is not landed, notice must be given thereof.	„	XXXIII.	
——————. Government may fix the time, place, and manner for vessels outward bound to take in powder.	„	XXXIV.	
——————. Penalties for having prohibited powder, &c., on board. Exception.	„	XXXV.	
——————. Penalty for discharging guns in port. Exception.	„	XXXVI.	
——————. (*Special Rule*). Unauthorized person not to search for lost anchors or stores.— Penalty.	„	XXXVII.	
——————. Salvage payable for wreck, &c. Register to be kept.	„	XXXVIII.	
——————. Property recovered may, in certain cases, be sold; proceeds how to be applied.	„	XXXIX.	
——————. (*Special Rule*). Penalty for removing stones, &c., or injuring shores of port.	„	XL.	

	Act.	Section.	Clause
	1855.		
PORTS AND PORT-DUES. Levy of port-dues.	XXII.	XLI.	
——————. Local Government may vary the port-dues within certain limits.	„	XLII.	
——————. Local Government may also remit or reduce port-dues on any vessel during the period of one year after the passing of this Act	„	XLIII.	
——————. Distinct accounts of port-dues to be kept, and an abstract thereof to be published.	„	XLIV.	
——————. Collection of port-dues. Voucher to be given.	„	XLV.	
——————. Penalty for Master failing to report the arrival of vessel to Conservator.	„	XLVI.	
——————. Conservator may in certain cases ascertain the draught, and charge the expense thereof to the Master. ..	„	XLVII.	
——————. Tonnage of vessel liable to port-dues how to be ascertained, if registered.	„	XLVIII.	1
If not registered.	„	„	2
——————. On refusal to pay port-dues, &c., the Collector may distrain and sell.	„	XLIX.	
——————. No port clearance to be granted until dues, &c., are paid.	„	L.	
——————. Conservator, &c., may go on board any vessel in discharge of his duty. Penalty for preventing entry. ..	„	LI.	
——————. Penalty for obstructing Officer in discharge of his duty, &c.	„	LII.	
——————. Powers of Assistant Conservator, of Harbour Master, and of Assistant Harbour Master.	„	LIII.	
——————. Penalty for hoisting unlawful colors in Port ..	„	LIV.	
——————. Offences how punishable, and penalties how to be recovered.	„	LV.	
——————. Costs of conviction.	„	LVI.	
——————. Damages, &c., payable under this Act, how to be ascertained and recovered.	„	LVII.	
——————. Costs of distress.	„	LVIII.	
——————. Magistrate to determine the amount to be levied in case of dispute.	„	LIX.	
——————. Act not to extend to vessels of war, nor to affect any private right of property, nor any Customs law or regulation.	„	LX.	
——————. Indemnity to East India Company against default of Harbour Master, Pilot, &c., except as to any act done by or under the express order or sanction of Government. ...	„	LXI.	
——————. Interpretation of word "Magistrate" in this Act.	„	LXII.	
——————. Jurisdiction over offences beyond the local limits of jurisdiction.	„	LXIII.	

	Act.	Section.	Clause.
	1855.		
PORT AND PORT-DUES. Conviction to be quashed on merits only. Form of conviction, &c.	XXII.	LXIV.	
———————. Construction of Act.	„	LXV.	
PROCESS OF EXECUTION.—Process of contempt not to issue to compel performance of decree, &c., to pay money, or to execute a deed, &c.	V.	I.	
———————. Party in default, after judgment or order to pay money or costs, to be proceeded against by a writ of *capias ad satisfaciendum* or *fieri facias*, &c.	„	II.	
———————. Sheriff how to deal with money levied. ..	„	III.	
———————. Court empowered to appoint an officer to execute instrument, or to do any act for the person who has been ordered but has failed to do the same.	„	IV.	
———————. Or in certain cases to dispense with the execution of an instrument or the signature of a writing.....	„	V.	
———————. Court empowered to enforce the delivery of any immoveable property or any specific chattel, or the deposit of any books, papers, or other articles or things, by seizure.	„	VI.	
———————. Sections I and II Act XXV. 1841 repealed	„	VII.	
———————. Power reserved to Court to issue process of contempt to compel obedience to orders which cannot be otherwise enforced	„	VIII.	
———————. Court may frame writs of execution and regulate the mode of issuing and executing the same . ..	„	IX.	
———————. Interpretation.	„	X.	
———————. Commencement of the Act.	„	XI.	
PROHIBITION of the exportation of Saltpetre, except in British vessels bound to London or Liverpool. [See Saltpetre.]			
PUNISHMENTS. [See Pardons, Reprieves, and Remissions of punishment.]			
REBELLION AND OTHER OFFENCES.—The Lieutenant Governor of Bengal may issue a Commission for the trial of certain offences committed within the district of Beerbhoom and certain parts of the districts of Bhaugulpore and Moorshedabad.	XXXVIII.	I.	1
———————. Commissioner may hold a Court in any part of the said districts.	„	„	2
———————. Lieutenant Governor may vest Court with certain powers..	„	II.	
———————. No sentence of death to be carried into effect without the sanction of the Lieutenant Governor	„	III.	
———————. Magistrate may commit persons for trial before a Court held under this Act.	„	IV.	
———————. Persons convicted of treason or rebellion within the Districts named, after the passing of this Act, liable to capital punishment, or imprisonment, &c. . .	„	V.	

	Act.	Section.	Clause.
	1855.		
REBELLION AND OTHER OFFENCES. Penalty for persons guilty of treason or rebellion within the Districts named, before promulgation of this Act.	XXXVIII.	VI.	
——————————. Sentences of imprisonment with hard labor when to be carried into effect.	„	VII.	
——————————. Act not to apply to British-born subjects or their children.	„	VIII.	
——————————. Lieutenant Governor may issue proclamation prohibiting the carrying or possession of arms.	„	IX.	
——————————. Penalty for unlawful possession of arms, &c.	„	X.	
——————————. Magistrate empowered to search houses, &c., and seize arms, &c.	„	XI.	
——————————. Executive Government may grant exemption to certain persons.	„	XII.	
——————————. Interpretation.	„	XIII.	
——————————. Lieutenant Governor may commute sentences of death in certain cases.	„	XIV.	
——————————. Duration of Act.	„	XV.	
REGULAR APPEALS. [See Appeals.]			
REGULATION III OF 1833 OF THE BOMBAY REGULATIONS. Amendment of———. [See Joint Police Officers.]			
REPRESENTATIVES, EXECUTORS, or ADMINISTRATORS may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person. [See Administration.]			
REPRIEVES AND REMISSIONS of punishment. [See Pardons.]			
SAINT LUCIA. Emigration of Native laborers to———. [See Emigration.]			
SALT.—See Contraband Salt.			
SALTPETRE. Export of———from India, except in British vessels bound to London or Liverpool, prohibited.	XXXIII.	I.	
———— to be confiscated, in case of attempt to export it contrary to this Act.	„	II.	
————. Penalty for exporting, &c.	„	III.	
————. Officer of Customs not to grant a pass or permit after the 17th November 1855, except according to this Act. ..	„	IV.	
————. Act not to extend to———shipped, or for the shipment of which a pass was granted before the 17th November 1855.	„	V.	
————. Seizure of———liable to confiscation.	„	VI.	
————. Adjudication of confiscation.	„	VII.	

	Act.	Section.	Clause.
	1855.		
SALTPETRE. Fines how to be levied.	XXXIII.	VIII.	
SAVINGS BANKS. [See Banks.]			
SECURITIES AND SHARES IN BANKS. [See Banks.]			
SESSION JUDGE OF COIMBATORE TO HOLD SESSIONS AT OOTACAMUND. [See Ootacamund.]			
SESSIONS COURT AT OOTACAMUND. [See Ootacamund.]			
SONTHALS.—Certain Districts inhabited by———and others removed from the operation of the general laws and Regulations, and placed under the superintendence of an Officer to be specially appointed for that purpose. [See Damun-i-koh.]			
STRAITS COPPER CURRENCY. [See Copper Currency.]			
SUPERINTENDENCE of certain Districts inhabited by Sonthals and others, vested in an Officer to be specially appointed for the purpose. [See Damun-i-koh]			
TITLES *(defective.)* Improvements made by holders under——. [See Mesne Profits.]			
TRANSPORTATION OF EUROPEAN CONVICTS. [See Penal Servitude.]			
TRIAL and punishment of rebellion and other offences committed within certain districts in which Martial Law has lately been proclaimed. [See Rebellion and other offences.]			
USURY LAWS.—Laws repealed..	XXVIII.	I.	
————. What rate of interest shall be decreed by the Court in any suit.	,,	II	
————. Rate of interest upon a judgment or decree. . .	,,	III.	
————. Contract for the use or usufruct of property, in lieu of interest, to be binding.	,,	IV.	
————. What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.	,,	V.	
————. Rate of interest on future adjustments of accounts.	,,	VI.	
————. Transactions previous to this Act not to be affected.	,,	VII..	
————. Commencement of Act.		VIII.	
WITNESSES. Attendance and examination of —— in the East India Company's Courts (Madras and Bombay).			
————. Laws repealed.	X.	I.	
————. Special application necessary to compel attendance of party to a suit as a witness.	,,	II.	

	Act.	Section.	Clause.
	1855.		
WITNESSES. Court may require notice to be given to a party to show cause why he should not attend.	X.	III.	
———. Written declaration of party receivable.	„	IV.	1
———. Penalty for false statement.	„	„	2
———. Court not to compel attendance of a party to a suit to give evidence, if satisfied that he has no personal knowledge of the case, and cannot give material evidence.	„	V.	
———. Summons to issue if no sufficient cause be shown.	„	VI.	
———. Mode of examining party to a suit who offers himself as a witness.	„	VII.	
———. Penalty for non-compliance with summons.	„	VIII.	
———. In what case a witness, not being a party to the suit in which he is summoned, is bound to produce his title-deeds.	„	IX.	
———. Persons not obeying summons, &c., liable for damages in a civil action, in addition to any proceedings to which he would otherwise be subject.	„	X.	
———. Postponing case on account of non-attendance of witness, &c.	„	XI.	
———. Oral evidence how to be taken.	„	XII.	
———. Evidence of Purdah Nusheen women.	„	XIII.	
———. By what rules a party to a suit is to be examined, and how punishable for false evidence.	„	XIV.	
———. Interpretation of the word witness in Act VII. 1841..	„	XV.	
———. No appeal from Judge's order as to summons, &c. . .	„	XVI.	
———. Document referred to in pleading to be filed.	„	XVII.	
———. Interpretation.....	„	XVIII.	
———. Commencement of Act.	„	XIX.	
WRITS OF EXECUTION. Sheriff empowered under any writ of *Fieri Facias* issued on any side of Supreme Court to seize and sell immoveable property.	VI.	I.	1
———. When property is in possession of judgment debtor, Sheriff to put purchaser in possession.	„	„	2
———. When property is not in possession of judgment debtor, Sheriff not to seize but to sell and convey debtor's interest. Effect of conveyance....	„	„	3
———. Sale when to be notified to judge of district. Proclamation of the same.	„	„	4
———. Notice of sale when to be published in the office of Collector, &c. Length of time for publication of such notice.	„	„	5
———. In what case judgment-debt may be raised by mortgage instead of sale.	„	II.	
———. Sheriff empowered under writ of *Fi-Fa* to seize money, bank-notes, &c.; to pay such money or bank-notes to execution-creditor; to endorse over or hold cheques, &c., and to sue in his own name for amount secured by bills of exchange, &c. or for debts, &c.	„	III.	

	Act.	Section.	Clause.
	1855.		
WRITS OF EXECUTION. Sheriff empowered to receive interest on Government securities seized by him; and to sell, and, when necessary, to endorse such security....	VI.	IV.	
———————. No debt to be sold by Sheriff. . . .	„	V.	
———————. Shares in any public Company may be charged in execution	„	VI.	
———————. Property standing in name of any officer of Court.	„	VII.	
———————. Party arrested under a *Ca. Sa.* entitled to discharge on payment or tender of the amount of levy to opposite party or his attorney, or to Sheriff or Gaoler.	„	VIII.	
———————. Written order of attorney issuing *Ca. Sa.* sufficient for the discharge of a party by Sheriff or Gaoler, unless the client shall give written notice to the contrary. Attorney not justified in giving order for discharge without the consent of his client.	„	IX.	
———————. Sheriff not to be liable for escape, &c. beyond the amount of the loss really occasioned.	„	X.	
———————.Writ of execution, if unexecuted, not to remain in force for more than one year, unless renewed; but may be renewed from time to time. Renewed writ entitled to same priority as original. Proviso as to writ of *Habere.*	„	XI.	
———————. Production of writ or of notice of renewal sufficient evidence of renewal.	„	XII.	
———————. Under a writ of sequestration all property may be seized in like manner as under a *fi. fa.*, and sum ordered to be realized may be levied as under a *fi. fa.*	„	XIII.	
———————. Interpretation.	„	XIV.	
WRONGS.—Executors, Administrators, or Representatives may sue and be sued in certain cases for ——— committed in the lifetime of a deceased person. [See Administration.]			